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THE INTERNET SOCIETY
7

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SANTA CRUZ

11 TODD GLASSEY and MICHAEL
MCNEIL,

12
13 Plaintiffs,

14 v.

15 MICROSEMI CORPORATION, ET AL.,

16 Defendants.
17

) CASE NO.: 16-CV-01577
)

) **DECLARATION OF ANGELA COLT**
) **IN SUPPORT OF (1) INTERNET**
) **SOCIETY'S DEMURRER; AND (2)**
) **REQUEST FOR JUDICIAL NOTICE.**

) Date: October 3, 2016
) Time: 8:30 a.m.
) Judge: Hon. John Gallagher
) Department: 4
) Action Filed: June 24, 2016
)

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1 6. Attached as **Exhibit 2** is a true and correct copy of the Second Amended
2 Complaint filed January 7, 2011 in *Glassey I*.

3 7. Attached as **Exhibit 3** is a true and correct copy of the Amendment to Second
4 Amended Complaint filed September 4, 2012 in *Glassey I*.

5 8. At my direction, the following court documents were collected and obtained
6 from the docket in *Glassey, et al. v. Symmetricom, Inc.*, No. 3:13-cv-04662-NC (N.D.
7 Cal.) ("*Glassey II*") in preparation for, and in support of, the Internet Society's Request For
8 Judicial Notice:

9 9. Attached as **Exhibit 4** is a true and correct copy of the Complaint, ECF No. 1,
10 filed October 7, 2013 in *Glassey II*.

11 10. Attached as **Exhibit 5** is a true and correct copy of the Settlement Agreement
12 and Mutual Release, ECF No. 1-5, Exhibit E to the Complaint filed October 7, 2013 in
13 *Glassey II*.

14 11. Attached as **Exhibit 6** is a true and correct copy of the Order Dismissing Case
15 Without Prejudice, ECF No. 45, filed May 6, 2014 in *Glassey II*.

16 12. At my direction, the following court documents were collected and obtained
17 from the docket in *Glassey et al. v. Microsemi, Inc. et al.*, Case No. 14-cv-03629-WHA
18 (N.D. Cal.) ("*Glassey III*"), in preparation for, and in support of, the Internet Society's
19 Request For Judicial Notice:

20 13. Attached as **Exhibit 7** is a true and correct copy of the Amended Complaint,
21 ECF No. 6, filed August 27, 2014 in *Glassey III*.

22 14. Attached as **Exhibit 8** is a true and correct copy of the Settlement Agreement
23 and Mutual Release, ECF No. 31, filed September 2, 2014 as an exhibit to the Amended
24 Complaint filed August 27, 2014 in *Glassey III*.

25 15. Attached as **Exhibit 9** is a true and correct copy of the Settlement Agreement
26 and Mutual Release, ECF No. 31-1, filed September 2, 2014 as an exhibit to the Amended
27 Complaint filed August 27, 2014 in *Glassey III*.

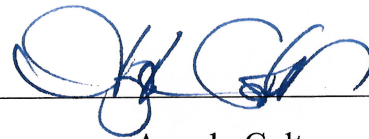
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1 16. Attached as **Exhibit 10** is a true and correct copy of the Second Amended
2 Complaint, ECF No. 112, filed November 13, 2014 in *Glassey III*.

3
4 I declare under penalty of perjury that the foregoing is true and correct.

5
6 Executed on August 29, 2016 in New York, New York.

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Angela Colt

EXHIBIT 1

5-25-10
(4)

Michael E. McNeil, In Pro Se
Todd S. Glassey, In Pro Se
PO Box 640
Felton CA 94018-0640
831-334-0182

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CRUZ
(MAIN)

Michael E. McNeil, an Individual;

Todd S. Glassey, an Individual;

Glasse, In Pro Se

Plaintiffs,

vs.

JASON BOOK ESQ, and BOOK and BOOK

LLC, a Law Firm; ROBERT BOSSO Esq,

and Bosso Williams Sachs Book Attack

and Gallagher, a Law Firm;

SYMMETRICOM INC, a California

Corporation (including employees and

past employee MARK HASTINGS); JOHN

CANNON, Attorney at Law, Stradling

Yocca Carlson and Rauth LLP; and

Does 1-50, inclusive;

Defendants

Case No.: CV-165643

AMENDED COMPLAINT FOR DAMAGES,
DECLARTORY JUDGMENT AND AN ORDER FOR
THE RESCISSION OF ASSIGNMENT OF
INTELLECTUAL PROPERTY RIGHTS AND US
PATENT 6,370,629

FILED

MAY 21 2010

ALEX CALVO, CLERK
BY *Michael O. O'Neil*
DERUTY, SANTA CRUZ COUNTY

Comes now, Plaintiffs, Michael E. McNeil, Todd S. Glassey

all of whom, file a complaint for

damages and accompanying prayer for relief, as follows:

INTRODUCTION

This complaint pertains to alleged malpractice based frauds suffered by the Plaintiff's during their retention of Defendant Bosso and Book as legal counsel and General Counsel of GMT Inc. and Glassey and McNeil as individuals.

It further pertains to alleged frauds directly suffered by Plaintiff's in relation to actions allegedly committed by Bosso and Book over an ongoing period pertaining to the withholding of key documents supposedly executed as part of a two document simultaneously executed settlement agreement which apparently wasn't simultaneously executed.

It likewise also pertains to the failure to meet specific requirements in GMT's Co-Inventor Agreement with DDI and DDI's Successor's actions over an ongoing period pertaining that entity's 'licensing of work-products belonging to the Plaintiffs, GLASSEY and MCNEIL, and collectively as such in the Defendant's actions in fraudulently misrepresenting the scope of that license as well as the value of the Intellectual Properties therein.

And finally, further that Defendant Symmetricom through its actions continued the public frauds allegedly originally perpetrated by HASTINGS and DDI in the actions where they 'licensed certain Intellectual Properties" and then fraudulently filed a US Patent application and its foreign filings pertaining to their "complete and total ownership" of Intellectual Properties they only licensed the non-exclusive use of.

1 **PARTIES**

2 Per Rule 3.254. List of parties, the parties to the complaint are identified
3 individually and as corporate entities.
4

5 **BOSSO Williams LLC**

6
7 **BOSSO/WILLIAMS LLP and Robert Bosso Esq (BOSSO)** - A Law Firm retained by
8 GLASSEY and MCNEIL to represent their interests in the matter herein. At all
9 times the practice of Bosso/Williams has been located in Santa Cruz
10 California.
11

12 **Book and Book LLC**

13 **BOOK and BOOK LLP and Jason Book Esq (BOOK)**- A Law Firm GLASSEY and MCNEIL
14 were forced to accept when the Attorney's assigned to GLASSEY and MCNEIL by
15 BOSSO/WILLIAMS were split outside of BOSSO/WILLIAMS in what was an internal
16 Partners War in the Law Firm. At all times the practice of Book and Book has
17 been located in Santa Cruz California.
18

19
20 **Symmetricom (as Successor to Datum and DDI/Hastings)**

21 **SYMMETRICOM INC (SYMMETRICOM)** - The merged "Successor" to **DATUM (DATUM)** and
22 **DIGITAL DELIVERY INC (DDI)**. SYMMETRICOM is a manufacturer of time-keeping
23 equipment located in San Jose California. Inclusive in this are the following
24 officers of Digital Delivery, Datum and now Symmetricom as individuals: Mark
25 Hastings President of Digital Delivery and the Bancom Division of Datum; Mr.
26 Erik Van Der Kaay President/CEO and Chairman of Datum and later Chairman of
27 Symmetricom, and a direct signatory to alleged settlement agreements between
28 Glassey/McNeil and DATUM/DDI, and the officers and Board Members of
Symmetricom Inc.

1
2 DATUM, Van Der Kay et al

3 Datum (DATUM), the Datum Corporation was a multi-division time-service
4 technology provider for computer and telecommunications timekeeping. DATUM
5 was headquartered in IRVINE California and had divisions in Texas,
6 Massachusetts, and in northern California called BANCOM Inc. where GLASSEY
7 and MCNEIL contracted for them as Business Development Marketing/Sales
8 Engineering on a contract basis. DATUM thus in 1997 through 1998 had a
9 contract with GLASSEY and MCNEIL as the GMT collective to produce sales and
10 market support materials only.
11

12
13 DIGITAL DELIVERY INC and Mark HASTINGS

14 DIGITAL DELIVERY INC (DDI) was a company acquired by DATUM under
15 recommendation from GLASSEY as an extended part of his market development
16 efforts for DATUM. DDI's president Mark Hastings later became the President
17 of the Bancom division of DATUM replacing most all of Bancom's management
18 staff before relationship between HASTINGS and DATUM's Chairman Erik Van Der
19 Kaay imploded and they both were forced to attend anger management classes so
20 they could sit in the same room let alone run the same company with each
21 other.
22

23 CANNON and Stradling Yocca LLC

24 John Cannon Esq, (CANNON) - Sr. Litigation Partner at Stradling Yocca Carlson
25 and Rauth in their Orange County California Operations center. Mr. Cannon is
26 an alleged party to the fraud by wire complaint and misrepresentation in his
27 actions as the sole architect of the settlement terms agreement and the two
28 DATUM settlement agreements. He has also withheld executed copied of those

1 documents knowing that this caused significant damage to the Petitioners
2 herein. As such since his actions in the design of the fraudulent settlement
3 and its documents were fully electronic in nature, he became a part to the
4 fraud complaint as well. As such his and his firm's Attorney-Client
5 protections are void based in the argument that his actions are an integral
6 part of the alleged frauds perpetrated against McNeil and Glassey as alleged
7 herein.

8 9 THE CAUSES AND THEIR INDIVIDUAL CLAIMS

10 Pursuant to Rule 13(a)(5) of the California Rules of Court we
11 present the following causes with individual claims against the
12 defendants as noted

- 13 • Malpractice and Breach of Contract (Bosso/Book)
- 14 • Fraud in a Patent Assignment and ongoing Settlements
(Hastings, DDI, Datum, and Symmetricom)
- 15 • Breach of Contract (DDI, Datum and Symmetricom)
- 16 • Ongoing Tortuous Interference (Hastings, DDI, Datum,
Symmetricom)
- 17 • Infliction of Intentional Distress (against all Defendants)

18 These claims are broken into the five causes enumerated above
19 by Defendant in the following sections. In all instances the intent
20 of this litigation is to force rescission per the terms of the Co-Inventor's
21 agreement which is included as exhibit seven for failing to perform per
22 sections 4, 3, and 2C of that document as well as to be awarded for damages
23 in Symmetricom's and others actions to prevent this rescission from happening
24 on paper so that Glassey and McNeil can properly protect their Intellectual
25 Properties.
26
27
28

1 CAUSES - BOOK & BOOK and BOSSO, WILLIAMS, SACHS,
2 ATTACK, BOOK, GALLAGER ET AL
3

4 *MALPRACTICE and FRAUD, VIOLATION of FIDUCIARY RESPONSIBILITY of RETAINED*
5 *COUNSEL and ongoing TORTUOUS INTERFERENCE;*

6 That Counsels JASON Book and ROBERT BOSSO and their Law Firms (known as BOSSO
7 WILLIAMS SACHS, BOOK, ATTACK and GALLAGER, which Book & Book later split off
8 from) committed malpractice in their initial and ongoing responsibilities
9 after being retained by Plaintiffs Glassey and McNeil to represent them and
10 their company Glassey-McNeil TECHNOLOGIES ("GMT"), and in so doing took an
11 adversarial role toward their own client, such that GMT's Counsel firm BOSSO
12 WILLIAMS and later Book & Book "became an agent of the Opposing Counsel,"
13 failing to provide legal services of a basic standard of care, by

- 14 • Failing to properly advise clients of contract implication
15 and time frames for actions therein.
- 16 • Misrepresenting the legal effect of specific terms and
17 conditions of an Intellectual Property Assignment which
18 should have been void for lack of consideration; and
- 19 • Further misrepresenting the effect of two simultaneously
20 executed documents when one of the two documents was in
21 fact not executed, or - due to Counsels' incompetence or
22 malfeasance - was never proven to have been executed; and
- 23 • Finally, Counsels' continuing ongoing misrepresentation of
24 "the execution of all documents" and their refusal or
25 inability to produce the original signed copies thereof for
26 Glassey and McNeil's reference copies despite claiming to
27 have done so.
- 28 • SYMMETRICOM has also ignored the service of notice of
intended Arbitration further documenting its assertion it
is not bound to Glassey and McNeil under any agreements at
this time. Said notice was delivered per the Settlement
Terms in June of 2008 and was argued about in Symmetricom's

1 ongoing Delay Tactics from that point. This litigation is
2 the consummation of ongoing arguments therein and their
3 refusal to arbitrate this matter.

4 And because actions like Flatt v Superior Court, Sonoma County (1994) 9 Cal.
5 4th 275 have set precedent for measuring "the faithfulness of an Attorney,"
6 under it and other standard of care statutes Plaintiffs claim right of
7 action herein. Additionally Plaintiffs assert that these alleged actions by
8 their attorneys Bosso/Book established a condition which under Meihgan v
9 Shore¹ would have been adversarial to them, and to such a degree that Glassey
10 and McNeil would have been prevented from developing those Intellectual
11 Properties BOSSO/Book were retained to protect for them - which
12 created under Rule 1-120 for "Assisting, Soliciting, or Inducing
13 Violations" a requirement to properly assist Glassey and McNeil in
14 protecting their Intellectual Properties jointly patented by they and
15 DIGITAL DELIVERY INC. ("DDI") under U.S. Patent No. 6,370,629 (known
16 also as the "Controlling Access Patent") in which Hastings filed for
17 protections which Glassey and McNeil assert were never licensed or
18 assigned in any form to Digital Delivery and which appear there in
19 violation of the spirit and language of the settlement agreements they
20 approved and negotiated language changes for and for which Book
21 provided critical analysis and advice as legal representative, a
22 credentialed officer of the court, therein.

23 To wit, a contract for said representation was negotiated between the
24 Plaintiffs and Defendants BOSSO WILLIAMS SACHS BOOK ATTACK and
25 GALLAGER (Bosso/Book), and then later Book & Book. Bosso/Book
26 assigned their "new technologies" specialist, **Jason Book, Attorney at**
27 **Law to represent Glassey and McNeil's company GMT**, on or about October
28 of 1998. A conformed copy of the personal services Attorney-Client
Contract is incorporated as **Exhibit "eight"**.

¹ (34 Cal.App.4th 1025, 40 Cal.Rptr.2d 744)

1
2 Legal representation encompassed, but was not limited to, corporate
3 legal representation including contract negotiation, intellectual
4 property rights, patent rights, agreements in relation to encryption
5 and decryption technology employing the use of time-and-location data
6 to control access to stored information and to control digital
7 systems.
8

9 The first of two Agreements under the title of "Settlement Agreement
10 and Mutual Release," incorporating settlement terms and release of
11 rights, which Defendant, JASON R. Book negotiated, prepared, and
12 executed with and on behalf of the Plaintiffs and their company GMT
13 was purportedly consummated on or about November 19, 1999. At the time
14 the aforementioned Agreement was executed, said Defendant, JASON Book
15 was an attorney with the firm of BOSSO, WILLIAMS, SACHS, BOOK, ATTACK
16 and GALLAGHER ("BOSSO WILLIAMS").
17

18 Said Settlement Agreement (aka Settlement #1 of 2) was to be entered
19 into "by and between Datum, INC. ("Datum") on the one hand, and the
20 Plaintiff's corporation "Glassey-McNeil Technologies Inc." ("GMT"),
21 along with Plaintiffs Todd S. Glassey ("Glassey") and Michael E.
22 McNeil ("McNeil") (the three of which are collectively referred to in
23 the two Settlement Agreements as "GMT/Glassey/McNeil"). It was
24 properly executed but no additional works in defining the scope or
25 specific implementation of the "Trusted Timing Infrastructure version
26 II" was ever performed, and Symmetricom's public commentary is that
27 they own "all Trusted Timing Infrastructure" implementations when
28 their agreements specifically limit them to their derivative of

1 Glassey's original Trusted Timing Infrastructure version I or the
2 final version III'. Datum's sole use was for their special version
3 using the already existing Datum GPS chips for the secured clock. No
4 other conveyance of rights to any previous or later Glassey IP which
5 is not specific to the Datum GPS model is covered by this license, and
6 as such all Trusted Timing Infrastructure implementations including
7 the terminology Trusted Timing Infrastructure remain with Glassey.

8
9 The first such Agreement is attached hereto and incorporated herein
10 as **Exhibit "One"**. A second "Settlement Agreement and Mutual Release,"
11 under the same exact title, was purportedly executed by the same
12 aforementioned parties on or about the same date of November 19, 1999,
13 a copy of which is incorporated herein and attached as **Exhibit "Two"**.

14
15 The latter Settlement Agreement, presumably fully executed by all
16 parties, was purportedly returned to Jason Book, Attorney at Law, on
17 or after November 19, 1999.

18
19 No executed copies of the second agreement exist and Datum, now
20 Symmetricom has refused to complete the other steps necessary to
21 complete the IP licensing constrained in the Co-Inventor's Agreement
22 which has specific terms "for Datum's refusing to produce documents or
23 provide proper support to Glassey and McNeil.

24
25
26 **BOSSO WILLIAMS' Responsibility to properly manage JASON Book**
27 This set of claims applies to BOSSO WILLIAMS in its responsibilities prior to
28 and after Book AND Book split away from the former firm, and also pertains to

1 the Cal Bar Rules of Professional Conduct as per the duties set forth in rule
2 3-110 which include the duty to supervise the work of subordinate attorney
3 and non-attorney employees or agents. ² Furthermore, BOSSO WILLIAMS and Book
4 AND Book have both refused to disclose their underwriters to the Plaintiffs
5 in violation of Cal Bar Rule 3-410 Disclosure of Professional Liability
6 Insurance.

7
8 Book's Actions were a "Substantial Factor"

9 The modern trend of authority, both in California and other jurisdictions, is
10 to employ "substantial factor" analysis to avoid the inequities that
11 accompany the "case within a case" approach, the "but for" causation
12 requirement, and derivative doctrines. Plaintiffs assert that that is the
13 case here. See Temple Community Hospital v. Superior Court (1999) 20 Cal.4th
14 464, 488; see also Rest.3d Law Governing Lawyers (1998) § 53 (com. b). It is
15 for that reason that Plaintiffs approach this as the actions of BOSSO/Book
16 being the substantial factor in this case.
17
18

19 On or about November 6, 2008, Glassey and McNeil obtained sufficient cause to
20 commence suit, premised on the alleged breach of the terms of the second
21 Settlement Agreement which is Exhibit "Three". The basis for commencing a
22 tortuous interference suit against an adversarial party to Exhibit "Three",
23 to wit Datum (now Symmetricom), was to allege tortuous interference arising
24 from the breach of Exhibit "Three". Such breach includes, but would not be
25 limited to:
26

27 ² (See, e.g., Waysman v. State Bar (1986) 41 Cal.3d 452; Trousil v. State Bar (1985) 38 Cal.3d 337, 342 [211
28 Cal.Rptr. 525]; Palomo v. State Bar (1984) 36 Cal.3d 785 [205 Cal.Rptr. 834]; Crane v. State Bar (1981) 30
Cal.3d 117, 122; Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288; 499 P.2d 968]; Vaughn v. State
Bar (1972) 6 Cal.3d 847, 857-858 [100 Cal.Rptr. 713; 494 P.2d 1257]; Moore v. State Bar (1964) 62 Cal.2d 74,
81 [41 Cal.Rptr. 161; 396 P.2d 577].)

- a. Misrepresentation of features in the foregoing two Settlement Agreement contracts that were then being prepared by Datum's Attorney.
- b. Datum's Counsel's fraud in misrepresenting that the foregoing second Settlement Agreement had been properly signed and executed by all parties.
- c. Datum's officer HASTINGS' fraud in misrepresenting the filing of the "Controlling Access Patent" at the U.S. Patent Office.
- d. HASTINGS' fraud in the inclusion of particular claims in his application at the U.S. Patent Office for the "Controlling Access Patent" which he did not own the rights to from Glassey's and McNeil's and GMT's Intellectual Property license to DDI and Datum.
- e. Datum's preventing Glassey and McNeil's participation in Office Actions during the prosecution of the filed patent known as the "Controlling Access Patent" that was ultimately granted as Patent No. 6,370,629 at U.S. Patent Office;
- f. The seizure as a result of actions by Datum of two "Time Servers" in Japan, that had been awarded by the COASTEK INFOSYS INC. U.S. Bankruptcy Court to Plaintiff, TODD S. Glassey. (Thereafter these servers were turned over to another firm "Amano", also in Japan.)

On or about November 7, 2008, Plaintiff, MICHAEL E. McNeil contacted his Attorney, Defendant MR. JASON Book, in connection with initiating proceedings against responsible third parties arising from breach of the foregoing second Settlement Agreement (Exhibit "Three"), previously drawn up, and presumably consummated, with MR. Book's assistance. In response to McNeil's explicit request, Book declined to assume such a case based on a breach of an

1 Agreement he had previously prepared and supposedly seen to completion as
2 fully executed between all parties.

3
4 On November 11, 2008, Plaintiff, TODD S. Glassey forwarded a communication to
5 his Attorney, Defendant Jason Book, requesting from Book and Book's file, the
6 following:

7 a. "A formal listing of everything that was paid for between BOSSO
8 WILLIAMS and us, and Book AND Book and us, so we can do the proper losses on
9 the previous years."

10 b. "A formal copy of the signed and executed [Settlement Agreement]
11 contracts (Both of Them) - and since they were not in your files, you should
12 call [Datum's Attorney] JOHN CANNON to reiterate our need to get those
13 please."

14 c. "A statement from you [Book] saying that all things are OK between
15 us from that point onward."

16
17 Defendant, Mr. Jason Book refused to cooperate with Plaintiffs', Book's
18 clients' foregoing requests on or about November 14, 2008, terminating the
19 attorney-client relationship, after being unable to provide a conformed copy
20 of the executed second Settlement Agreement in question (Exhibit "two").
21

22 The legal malpractice of Defendants, and each of them, was finally discovered
23 with due diligence on or about January 27 of 2009. The discovery came to be
24 by virtue of a complaint response, from the State Bar of California, dated
25 January 27, 2009, wherein the State bar advised Plaintiff, MICHAEL McNeil, in
26 relation to Inquiry Number 08-30377, that McNeil's complaint of December 15,
27 2008, could not be acted upon as a discipline action for alleged misconduct.
28 However, the State Bar representative did advise MR. McNeil that "You may

1 wish to consult with other legal counsel regarding your available civil
2 remedies. You may contact your local or county bar association to obtain the
3 names of attorney to assist you in this matter."

4
5 The moving complaint has been filed to preserve the statute of limitations on
6 any and all causes of actions.

7
8
9 Claim 1 - Misrepresentation of Fact to their clients

10 The first claim pertains to Jason Book and his work in representing GMT
11 during Bosso Williams's representation and later Book AND Book's
12 representation. Book worked on the GMT Settlement Agreements crafted by
13 Datum's Counsel John Cannon to settle the IP dispute between GMT, Glassey and
14 McNeil vis-à-vis DDI and its acquirer Datum

15 I.

16
17
18 The Settlement Structure

19 The settlement package designed by Datum's Counsel JOHN CANNON was
20 represented by CANNON, and reaffirmed by the Plaintiffs' Attorney Book, that
21 these documents functionally allowed Datum to license the use of certain IP
22 called the GeoSpatial Controls which were to be added to DIGITAL DELIVERY's
23 Confidential Courier [™] product line as a location and time of day control-set
24 on those digital files and objects. It also contained an assignment against a
25 thing called the Trusted Timing Infrastructure version two. No other Trusted
26 Timing Infrastructure IP was conveyed to Datum in the contract, meaning that
27 versions one and three remained with Glassey and McNeil.
28

1
2 CANNON represented this agreement set as being designed to be two
3 simultaneously executed contracts allowing for proper transfer of certain IP
4 Licensing Rights to Datum and the acknowledgment that Datum had no claim to
5 certain IP and limited use of other IP. Both documents must be executed to
6 meet the terms of the existing previously executed Co-Inventor's agreement.
7 Additionally the specification documents discussed in the Co-Inventor
8 agreement are also key pieces of the settlement package and without their
9 existing the settlement agreement which amended that original agreement
10 (called the Datum Settlements - exhibit's two and three) would be rescinded
11 for failure to perform under the earlier agreement. Likewise so would the
12 considerations of the licensing of the use of the GeoSpatial Intellectual
13 Properties also revert to Glassey and McNeil for any issued in the production
14 of the documents per section 8.7 of the TTI settlement as well as those of
15 the DDI Final Settlement (the Patent Settlement).
16
17
18

19 Book agreed with CANNON on this and represented that the contracts were
20 properly disclosed and extra considerations to the settlements actually
21 amended by the email around the agreements themselves, however Datum now
22 asserts this is not true and the documents are the totality of the agreement
23 between the parties. After Plaintiffs' Counsel Book initially failed to
24 obtain copies of the executed Settlement Agreements, Datum has also since
25 ordered its Counsel CANNON to withhold the executed documents from Glassey
26 and McNeil, thereby preventing them from any activity which could
27 functionally exploit their rights to the IP herein.
28

1 Bad Advice

2 The first claim is that JASON Book misrepresented to his client GMT and its
3 principals the Plaintiffs, the effects and scope that the controls language
4 in contracts created by Datum's Lawyers exerted over Intellectual Properties
5 which Glassey and McNeil were licensing to CANNON's client DIGITAL DELIVERY
6 INC. (DDI), a newly acquired division of Datum's - those being the limited
7 use of the GeoSpatial controls adding location and time controls to the file
8 and element-access controls in the original DDI patent, along with the right
9 for DDI to file a patent amendment on that limited scope of extension of
10 their existing patent issued in the U.S. and elsewhere, per the standard set
11 in Cal Bar Rule 3-300 i.e. Avoiding Interests Adverse to a Client. As such
12 Plaintiffs' Counsel BOSSO/Book acted in bad faith.
13

14
15 In fact Book and BOSSO failed to advise GMT and Glassey and McNeil that the
16 connections between the documents were nonexistent, representing that each of
17 the two agreements was self-supporting and had no tie to any other document,
18 when in fact CANNON and Book stated that it was safe to execute these
19 documents in this manner.
20

21
22
23 Quality of Representation, lack of zeal

24 Book and BOSSO had responsibilities to act to enforce that both documents
25 were linked to each other so that they properly noticed everyone's rights
26 therein. Rather than informing their client that this settlement was 'bad'
27 because the transaction required external documents to complete the IP
28 definitions and transfers who were not described in any language in the

1 settlements themselves, instead BOSSO/Book represented that it was safe to
2 execute these documents in this manner. This failing is tied to the level of
3 zeal and fervor put forth by GMT's counsel, BOSSO and their man Book³ and the
4 quality of service provided to GMT and Glassey/McNeil by BOSSO/Book.

5
6 As support for this allegation, Glassey and McNeil assert that BOSSO/Book
7 failed to produce the contracts they claimed they had executed and received
8 for GMT and also refused to become involved when the other party Datum
9 refused to produce those executed documents in order to prevent Glassey and
10 McNeil from asserting their rights to the IP that Datum/DDI misrepresent as
11 being their own per this set of complaints.

12
13 Although California does not require zealous advocacy, it is expected
14 that a lawyer will perform any service for a client that is appropriate
15 for the advancement of the client's legal rights so long as it does not
16 violate the law. See generally *People v. Crawford* (3rd Dist. 1968) 259
Cal.App.2d 874, 66 Cal.Rptr. 527 (an attorney should represent his
client to the hilt, even at the cost of professional fraternalism).

17 Furthermore, an attorney is required to advocate for his or her client
18 without regard to personal loss. See *People v. Crawford* (3rd Dist.
19 1968) 259 Cal.App.2d 874, 66 Cal.Rptr. 527. Nor should a lawyer's
20 diligence on behalf of a client be diluted by personal distaste for
having to raise a particular issue or by concern for potential adverse
impacts upon professional fraternalism. See *People v. Crawford* (3rd
Dist. 1968) 259 Cal.App.2d 874, 66 Cal.Rptr. 527.

21
22 BOSSO/Book's responsibility to properly inform Glassey and
23 McNeil

24 What BOSSO/Book had a responsibility to formally advise Glassey and McNeil of
25 was "that if the second of the foregoing Settlement Agreements was left
26 unsigned or there was a problem with its execution, the net effect of GMT's
27

28

³ The duty of a lawyer both to his client and to the legal system is to represent his client zealously within the
bounds of the law. *People v. McKenzie* (1983) 34 Cal.3d 616, 631, 194 Cal.Rptr. 462, 668 P.2d 769.

1 and Glassey's and McNeil's execution of the first limited-use Settlement
2 Agreement would be the permanent and full assignment of their rights to the
3 IP that DDI had licensed. Further that Glassey and McNeil's only recourse
4 then would be litigation to assert either assignment fraud or breach of
5 contract such that the Co-Inventor Agreement between DDI and Glassey and
6 McNeil would be the controlling instrument between the parties and their use
7 of Glassey and McNeil's GeoSpatial Technologies.

8
9 They also had a further responsibility to instruct Glassey and McNeil about
10 the precarious and sloppy nature with which Cannon's agreements relied on
11 external documents which were not explicitly defined but with which the
12 agreements were nebulous and undefined in scope, not accurately reflecting
13 the agreed to specifics about the limitation of use and specific
14 responsibilities under the joint licensing or the newly filed patent
15 To accomplish the production of those documents Datum had to work with
16 Glassey and McNeil to produce after the settlement. Ones that properly
17 documents the limited uses contemplated and agreed to between the parties in
18 the 'two-settlement agreement'. As well as to make sure they understood as
19 well that the failing to properly produce the second agreement leaves the Co-
20 Inventor Agreement between Glassey/McNeil and DDI still in effect as to those
21 IP's and their ownership.

22
23 This is covered under Cal Bar Rule 3-310(B) - Avoiding the Representation of
24 Adverse Interests.⁴

25
26 The general rule provided by CRPC 3-700(A)(2) is that a California
27 lawyer "shall not withdraw from employment until the member has taken

28 ⁴ (See also conflicts set under *Woods v. Superior Court* (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]; *Klemm v. Superior Court* (1977) 75 Cal.App.3d 893 [142 Cal.Rptr. 509]; *Ishmael v. Millington* (1966) 241 Cal.App.2d 520 [50 Cal.Rptr. 592].)

1 reasonable steps to avoid reasonably foreseeable prejudice to the
2 rights of the client, including giving due notice to the client, and
allowing time for employment of other counsel. ..."

3
4 This standard Plaintiffs assert BOSSO WILLIAMS violated when it agreed to
5 take on the negotiation and 'handling' of the IP settlement between GMT and
6 Datum/DDI and then subsequently forced GMT to 'transfer' to Book AND Book LLC
7 when it split away from BOSSO WILLIAMS and to sign letters agreeing to this,
8 whereupon Book thereafter had refused to provide for needed litigation or
9 allow third party funding of such litigation, in so doing becoming
10 adversarial to GMT in his representation thereof.

11
12 In addition to the ethical obligations departing lawyers have, they
13 also must avoid interfering with the contracts the firm has with
14 existing clients. See, e.g., Raymond H. Wong Inc. v. Xue, No. 115269/04
(N.Y. Sup.Ct. N.Y. Cty. 1/21/05) (associate enjoined from attempting to
15 lure away firm clients); Reeves v. Hanlon, 33 Cal.4th 1140, No. S114811
(Cal. 8/12/04) (departed lawyers liable for damages to firm for luring
away clients and associates).

16 It is Glassey and McNeil's allegation that the split between BOSSO WILLIAMS
17 and Book AND Book caused significant damage to GMT's interests in the GMT-
18 Datum negotiations and BOSSO/Book's refusal to litigate this matter on GMT's
19 behalf eliminated any proper response to CANNON's specious suit filed as a
20 delaying and harassing tactic.

21
22
23 Claim 2 - Book AND Book and BOSSO WILLIAMS acted
24 independently from their client and without authorization
25 That JASON Book and BOSSO WILLIAMS conspired to collect funds from GMT by
26 deception. Further that in doing so they conspired to accept funds from
27 CANNON/Datum in advance of any authorization from GMT as a corporation or
28

1 Glassey and McNeil as individuals. In doing so BOSSO/Book became agents of
2 CANNON and his law firm as well as Datum his client.

3
4 To enforce acceptance of the proposed settlement Book finally threatened at
5 that critical time in the negotiations with Datum to cease representing
6 Glassey and McNeil and to commence collection proceedings against their
7 outstanding account with BOSSO WILLIAMS, who Book said was demanding that it
8 be paid immediately even though it was BOSSO who forced GMT to accept Book's
9 limited services since he refused to litigate or allow Glassey and McNeil to
10 bring in outside funding to cover the cost of such litigation.

11
12 In so doing BOSSO/Book threatened and cajoled their client GMT to accept
13 terms in a set of settlements unfavorable to GMT in order to "get GMT off of
14 BOSSO WILLIAMS' and later Book AND Book's books."

15
16 In this matter Plaintiffs assert that Book accepted moneys as part of a
17 settlement which Glassey and McNeil had not yet accepted - and moreover that
18 the opposing party Datum never did accept/execute or was never proven to have
19 done so - and that this was done so as to force Glassey and McNeil to settle
20 the outstanding account with BOSSO WILLIAMS and Book AND Book.

21
22 Disciplinary Rules: DR 1-102(A)(4) (prohibiting a lawyer from engaging
23 in conduct involving dishonesty, fraud, deceit, or misrepresentation),
24 1-102(A)(6) (prohibiting a lawyer from engaging in conduct that
adversely reflects on the lawyer's fitness to practice law).

25 {¶ 5} A couple retained respondent in February 2005 to recover for
26 injuries they and their daughter sustained in an automobile accident.
27 The couple agreed to pay respondent a one-third contingent fee, and
28 respondent explained to them that the recovery would probably be less
than \$5,000 because of the relatively minor injuries involved. The
couple did not, however, authorize respondent to resolve the dispute by
entering into a final settlement agreement.

{¶ 6} Respondent nevertheless negotiated a settlement on behalf of her
clients. In the summer of 2005, she accepted a \$3,800 settlement offer

1 without notifying her clients or obtaining their consent to the
2 agreement. She then forged her clients' signatures on three separate
3 settlement checks, cashed the checks, and converted the settlement
4 **Misconduct** proceeds to her own use. Respondent consequently did not
5 provide the releases that she had promised to the tortfeasor's
6 insurance carrier.

7 In support of this allegation Glassey and McNeil assert that they were
8 finally informed by BOSSO WILLIAMS' office manager that said funds for that
9 settlement were 'wired to the Bosso Acceptance "TRUST ACCOUNT" - something
10 which in preceding the settlement could only be based on a covert acceptance
11 of a settlement from Datum by BOSSO/Book.

12 The Two Contracts - were not both properly and simultaneously
13 executed

14 From the date of the Settlement's supposed execution onward Book and BOSSO
15 WILLIAMS have asserted that the "two contracts" they analyzed and provided
16 legal analysis of were both simultaneously executed and that they presented
17 signed copies of these both to GMT, Glassey and McNeil. Unfortunately no such
18 fully executed copies of both of the contracts apparently exist or have ever
19 been seen; neither BOSSO nor Book have ever produced fully executed copies of
20 both Settlement Agreements, in particular the second such Agreement (Exhibit
21 "Three"), such that GMT and Glassey and McNeil "can document to a third party
22 what they licensed to Datum and what they retained as far as IP rights
23 underlying the technology now controlled in the 'Controlling Access Patent,'
24 U.S. Patent No. 6,370,629 and its other filings across the Globe."

1 The Signatories - Building evidence of the contracts' execution
2 Plaintiffs Glassey and McNeil have never been presented with a single set of
3 signed documents to this date, and Datum's Counsel's actions in now refusing
4 to acknowledge Glassey and McNeil's rights or the existence of the second
5 Settlement Agreement clearly was foreseeable by GMT's Counsels Book and
6 BOSSO. As such they had a duty to produce a final executed copy of the
7 documents they assert were electronically transferred to them in order to
8 properly document all parties' rights and Datum's ongoing responsibilities
9 and limitations.
10

11
12 The parties supposedly signing these agreements were to be Erik H. Van Der
13 Kaay as Datum CEO, MARK HASTINGS for DIGITAL DELIVERY, JOHN CANNON as Datum
14 Counsel, Glassey and McNeil as GMT's shareholders and Board members, Glassey
15 again as GMT CEO, along with JASON Book as GMT's Counsel.
16

17
18 Furthermore BOSSO WILLIAMS has an ongoing sua sponte responsibility and
19 liability to "make this ongoing fraud right" since it was entered into on
20 their advice. That means in taking whatever legal action is necessary to
21 force Datum's Counsel to properly produce those executed contracts.
22

23
24 Claim 3 - Tortuous Interference - BOSSO WILLIAMS and Book
25 The third claim for Malpractice is that both BOSSO WILLIAMS and Book continue
26 to represent "that all four copies of the key agreements were in fact
27 produced" although to date neither Book nor BOSSO can, or have, produced
28 photocopies or any other information proving that both of those Settlement

1 Agreement documents ever existed in executed form. This is covered under
2 BOSSO/Book's responsibility to both collect all of the individual signing
3 sheets for the independently and simultaneously executed contracts to prove
4 that they in fact were all properly executed, and that was never completed,
5 violating Cal Bar's Rule 4-100 - Preserving Identity of Funds and Property of
6 a Client.
7
8

9 This final point is made based in the alleged withholding of client records
10 despite BOSSO and Book having been asked for them on numerous occasions by
11 both Glassey and McNeil so they can commence infringement and rescission
12 litigation to reverse the original Assignment of Patent document that was
13 improperly executed by Glassey and McNeil and HASTINGS without any
14 compensation or consideration at that time.
15
16

17 In addition, the provision requiring return of client papers and
18 property is meant to clarify that the former counsel has a duty to
19 provide the client's files to the new counsel which were withheld from
20 GMT until mid-2009 preventing confirmation of the 'lack of executed
21 copies of the second settlement agreement' that both Book and Bosso
22 assured GMT was executed and in their possession⁵.
23

24 Ongoing responsibility to produce the properly executed
25 contracts
26

27 Book, BOSSO, and Datum Counsel JOHN CANNON have all likewise refused to act
28 to collect and produce a composite copy of the contract documents so that one
could document and properly prove that all parties executed the agreements.

⁵ Academy of California Optometrists, Inc. v. Superior Court (3rd Dist. 1975) 51 Cal.App.3d 999, 124 Cal.Rptr. 668; Weiss v. Marcus (2nd Dist. 1975) 51 Cal.App.3d 500, 124 Cal.Rptr. 297.

1 In CANNON's case his client apparently ordered him not to, but in Book's and
2 BOSSO's case this was done we assert "to damage and continue damaging Glassey
3 and McNeil so they would not be able to document their IP rights per the
4 settlement Book and BOSSO negotiated for them." The suppression of the non-
5 existence of these contracts constitutes a Cal Bar Rule violation of Rule 5-
6 220 - Suppression of Evidence.
7

8 9 The Status of the Two Contract Deal

10 In fact it appears is that there are no actual fully executed copies of the
11 entire contract set anywhere, meaning that the agreements were not
12 simultaneously executed as represented by CANNON as well as by BOSSO/Book.
13

14
15 Today, since there are no composite signature copies showing proper execution
16 of both of the simultaneously executed Settlement Agreements, and since Datum
17 now asserts that no such second contract was ever properly executed, Datum's
18 contention that the second document does not exist supports the fraud claim
19 against Book and BOSSO.
20

21 22 In summary

23 Further that the only possible interpretation of the foregoing is that Book
24 and BOSSO misrepresented the signing of the second Settlement Agreement
25 document "for the sole purpose such that they would be authorized to on paper
26 release funds which, unknown to GMT, they had already accepted receipt of in
27 an unauthorized manner."
28

1 CAUSES - HASTINGS, DDI, DATUM AND SYMMETRICOM

2 Patent Assignment Fraud, Breach of Contract, and ongoing
3 Tortuous Interference

4 That MARK HASTINGS committed an ongoing fraud with the U.S. Patent Office as
5 to his 'limited' rights under an assignment document, and further for which
6 he continued to interfere with Glassey and McNeil's activities in recovering
7 their IP assets.
8

9
10 Filing of these claims is timely

11 The filing of this claim is timely since it has just recently within the last
12 12 months become formal knowledge that Datum refuses to produce required
13 executed agreements between it and Glassey and McNeil and now refuses to
14 acknowledge Glassey's and McNeil's rights pertaining to core IP they licensed
15 the use of to DDI for its amending of its existing patent but which it rather
16 used as the Intellectual Property underlying the "Controlling Access Patent,"
17 granted as U.S. Patent No. 6,370,629.
18

19 Further, the refusal to produce the additional documents required by the Co-
20 Inventor Agreement (exhibit seven) and the addition of claims to the US PTO
21 filing after the Assignment created an instance which under the terms of the
22 Co-Inventor Agreement "directly prevented Glassey and McNeil's filing of
23 their own patent with regard to their IP", which also, since knowledge of
24 this fraud is now finally all put in place, is likewise within the three year
25 limit for those claims as well.
26
27
28

1 Laches

2 Further there is no Laches Claim possible by HASTINGS, Datum, or Symmetricom
3 since Glassey and McNeil only now (within the last 12 Months) have been
4 informed of Datum's tortuous interference by third parties whom Glassey and
5 McNeil are trying to assert their rights to with regard to those parties
6 infringing on the U.S. Patent 6,370,629.

7
8
9 Claim 1 - Patent Assignment Fraud Claim

10 The Patent Assignment Fraud claim is based on the assertion of HASTINGS'
11 fraudulent filing of an Assignment document pertaining to Intellectual
12 Properties which are different from those ultimately filed with the U.S.
13 Patent Office that would become US 6,370,629. Further no release against the
14 use of those IP's was ever contemplated in any foreign jurisdiction and each
15 of those since the IP differs slightly would need to be properly assigned as
16 well to be effective.

17
18 What has happened to date is that Glassey and McNeil allege that Hasting's
19 fraudulently misrepresenting that DDI was the sole owner of that Intellectual
20 Property rather than a limited-use licensor of the GeoSpatial technologies
21 that are the core IP underneath the US 6,370,629 issued patent, a use for
22 which the Plaintiff allege he was only licensed to use the GeoSpatial
23 Controls IP to amend his existing patent to expand its controls to include
24 the use of the location-centric and time-centric controls for file object
25 control.

1 Amending the HASTINGS existing patent is all that was licensed
2 The basis of the Claim is the allegation that MARK HASTINGS and his company
3 DIGITAL DELIVERY INC. (DDI) licensed the use of specific Glassey and McNeil
4 Intellectual Properties to extend his existing patent, U.S. Patent No.
5 5,646,992, under the exclusive proviso that he (HASTINGS) would "protect
6 their rights since their IP patent filing had not happened yet."

7
8 The topic of DDI's use of Glassey's IP was broached during a meeting with
9 Westlaw in Minnesota on a joint trip where Glassey was otherwise introducing
10 Datum and DDI to both the Westlaw and the Digital Evidence Team inside of
11 West as part of Datum's research into the market for Glassey's Secure Email
12 Service and Secure Time System.

13
14 At that time HASTINGS expressed his desire to license the use of the IP to
15 extend his existing patent and the dialog about this commenced in the break
16 room therein.

17
18
19 Hasting's agrees that Glassey and McNeil will share in the
20 protection he is filing for
21 To convince Glassey and McNeil to assign the GeoSpatial IP to him without any
22 prior consideration (payment), HASTINGS assured Glassey and McNeil that their
23 rights to their GeoSpatial Controls would be protected first through the
24 filing of his patent, that his amended patent would issue much faster than a
25 newly filed patent lacking priority which is what Glassey and McNeil had been
26 in the process of doing, and that Glassey and McNeil would share in the
27 patent protection of the core GeoSpatial IP's that his amended patent would
28 be using.

1 HASTINGS' deceitful action

2 Instead, what Glassey and McNeil assert in this complaint occurred is that
3 HASTINGS deceived them by making formal false promises; HASTINGS' deceit is
4 proved by his later filing covert documents with the U.S. Patent office
5 expanding the agreed-upon claims, and thereafter preventing Glassey and
6 McNeil as such from using their own Intellectual Properties by refusing to
7 create the detailed paperwork documenting the assignment and the limited use
8 of the IP that was allowed him to make it appear as though he owned all of
9 those rights, rather than his only licensing those limited rights from
10 Glassey and McNeil from their GeoSpatial Control's technology suite.

11
12 Proof of HASTINGS' deceitful action

13 HASTINGS filing was done, the Plaintiffs assert, with "no publication"
14 selected, and furthermore HASTINGS gave his counsel orders to prevent Glassey
15 and McNeil's interaction with the U.S. Patent Office or any foreign Patent
16 Offices for what was by then the "stolen IP" that HASTINGS had six global
17 patent filings against.
18
19

20 Original Patent Assignment is void for lack of consideration
21 Under U.S. Patent Law the assignment was void at that time for lack of
22 consideration since there were no agreements between DDI and Glassey and
23 McNeil then in place providing such consideration. Thus the assignment is
24 void for lack of consideration as well as for the fraud claims and this as
25 well as the claims and evidence justifies the petition for the rescission of
26 the assignment agreement which fraudulently is being used to misrepresent
27 'what was licensed by DDI and its successors.'
28

1 Second "Assignment Document" Documents withheld

2 As part of this Settlement Agreement an amended Patent Assignment document
3 was supposed to be supplied and executed after the signing of the Settlement
4 and that also was withheld from Glassey and McNeil, with HASTINGS and his
5 successors asserting that the original Assignment agreement was still
6 operable in breach of the negotiated agreement between the parties.

7
8 The withholding of these documents was condemned in furtherance of
9 "litigation tactics" in *Peregrine Funding, Inc. v. Sheppard, Mullin, Richter*
10 *& Hampton LLP*, 35 Cal.Rptr.3d 31, 38 (Ct.App.2005).

11
12
13 Claim 2 - Breach of Co-Inventor's Contract

14 Glassey and McNeil assert that DDI and later DDI and later Datum breached the
15 Settlement Agreements in form and fashion in that Datum/DDI by refusing to
16 produce executed copies of all the agreements essentially set the agreement
17 aside since it made it impossible for Glassey and McNeil to enforce their
18 rights (CalCode 3300 et seq). The failure to produce the agreements or the
19 supporting documents was anticipated as an action stemming from Datum's
20 alleged dealing in bad faith, and we seek acknowledgement that they were
21 required per the earlier and still in force agreement to work with GMT to
22 properly document their requirements per the terms of the Co-Inventor's
23 Agreement.

24
25 Note that Glassey and McNeil's prior agreement with HASTINGS/DDI stipulated
26 that if no subsequent agreement between the parties was executed, that all
27 rights to the IP and the Patent revert to Glassey and McNeil.

1 Withholding of executed copies of the settlement agreement they
2 are the architects of

3 As the basis for this claim, Datum/DDI's lawyers fabricated "a two document
4 contract set which were to be simultaneously executed," only what
5 functionally happened is that Datum's counsel refused to execute his copies,
6 or refused to provide executed copies of this agreement, after Glassey and
7 McNeil's faxed copies were in his possession as the agreements called for.
8 The second document was a key component of the set since both of these were
9 'the follow on agreement's mentioned in the previous contract. Since the
10 first agreement did not modify the original DDI license requirement it was
11 still in force, and so the withholding of these documents triggered
12 rescission of the assignment and all considerations therein as defined in
13 section 4 of the Co-Inventor's agreement as attached.

14
15
16 Operating in bad faith

17 Datum continued to pay the settlement terms while withholding the documents
18 in an attempt to prevent Glassey and McNeil's asserting their proper
19 ownership of their Intellectual Properties 'misappropriated' by Hastings in
20 his covert patent application.

21
22 There is an implied covenant of good faith and fair dealing in every contract,
23 requiring that neither party do anything that will injure the right of the other party to receive the
24 benefits of the agreement. *Foley v. Interactive Data Corp.*, 47 Cal. 3d 654, 684 (1988).

25
26 Withholding of the IP protection services that was a principal
27 part of the Payment

28 The principal breach of contract was in providing only minimal financial
payments and not the IP protection services or the support services for

When an insurer unreasonably, or without proper cause, withholds a payment or
denies a payment that is due under the policy, the insurer has not only breached the contract, but
is subject to the tort of bad faith. *Gruenberg v. Aetna Ins. Co.*, 9 Cal. 3d 566, 574-75
(1973); *Waters v. United Services Auto Ass'n*, 41 Cal. App. 4th 1063, 1070 (1996).

1 Glassey and McNeil's rights under the patents filed in multiple
2 jurisdictions. These services are key parts of the Financial Settlement
3 because they pertained to the facilities that Datum was to be responsible for
4 vis-à-vis the Plaintiffs. The failing to produce the other contract elements
5 constitutes a breach of the Co-Inventor's agreement.
6

7
8 Claim 3 - HASTINGS', Datum's and Symmetricom's Tortuous
9 Interference

10 Glassey and McNeil further allege a separate claim of Tortuous Interference
11 by HASTINGS to "prevent the discovery of this fraud until after the Patent
12 issued," and to interfere with Glassey and McNeil's rights to the IP that
13 HASTINGS had only licensed from them, an action which Glassey and McNeil
14 assert has been continued by Datum and its successor Symmetricom.

15 The First Acts of Interference

16 As one of the core claims for Tortuous Interference, Glassey and McNeil
17 further allege that HASTINGS' practiced an ongoing web of deceit specifically
18 for interfering with Glassey and McNeil and their efforts at protecting their
19 Intellectual Properties.
20

21 This claim is based in HASTINGS' ongoing frauds preventing Glassey and McNeil
22 from filing their own patents based on his covert patent application.

23 Further, we allege that HASTINGS 'mortgaged' that patent to a Bank (Wells
24 Faro) as a part of a collateralized loan further impacting Glassey and
25 McNeil's rights therein.
26
27
28

1 Later Acts

2 Finally, that the interference is specific to HASTINGS' and Datum's ongoing
3 withholding of the "supposedly simultaneously executed documents" his counsel
4 was the author of and an active participant in the misrepresentation of those
5 documents being properly executed. This tortuous interference is pertinent to
6 HASTINGS' violation of the Fiduciary Role he assumed when he agreed to
7 "protect Glassey and McNeil's IP Rights to their GeoSpatial Controls" when he
8 convinced them to execute a patent assignment with no other consideration.
9

10 CAUSES - DATUM - BREACH OF CONTRACT, DEALING IN
11 BAD FAITH, AND TORTUOUS INTERFERENCE

12 That Datum Corporation negotiated a settlement in bad faith making promises
13 through telephonic, fax, email and in-person communications it later
14 disavowed as not being effective changes of the incomplete contract between
15 the parties it required; and further that Datum intentionally misrepresented
16 its backing of HASTINGS' requirements to support Glassey and McNeil's limited
17 license of the GeoSpatial Controls in its product.
18

19 Additionally in the Settlements Datum asserted its derivative of Glassey's
20 original trusted clock system (aka the "Trusted Timing Infrastructure" or
21 "TTI") which was the basis of Glassey's technology that he approached Datum
22 to build and market as a partnership, and which Datum retained Glassey and
23 McNeil to act as Market Analysts for it. In so doing Datum waived any claims
24 to Glassey's Trusted Timing Infrastructure versions One (1) and Three (3).
25
26
27
28

1 Claim 1 - Datum withheld documents to tortuously interfere
2 with Glassey and McNeil's enforcement of their IP Rights
3 Datum's attorney in this matter CANNON agreed to take responsibility for
4 producing the agreed-upon settlement, which he later demanded be two
5 simultaneously executed agreements which conspicuously do not actually define
6 the Intellectual Properties in any of the assignments to a level which allows
7 a reasonable software license to be drawn from them and which require
8 significant further clarification to be binding.

9
10 The refusal to produce these detailed descriptions of the Intellectual
11 Properties prevents Glassey and McNeil from acting on their properties
12 because of the controls the extra unauthorized claims in U.S. patent
13 6,370,629 contain (to wit, Claims 24-32).

14
15
16 Claim 2 - Datum Breached the Contract

17 Datum, by withholding the Settlement documents, refusing to acknowledge that
18 DDI committed that GMT would enjoy protection of the GeoSpatial Control IP in
19 a general case for all uses not licensed in a non-exclusive manner to DDI,
20 and further blocking the Plaintiff's participation in the patent prosecutions
21 as issued. Since they were beneficiaries of the protection those patents
22 provided, the ongoing prevention of the involvement sealed Hasting's actions
23 in 'making it appear as though Datum now was the only owner of all of the
24 GeoSpatial Controls', from which Glassey and McNeil are petitioning for
25 relief herein.

26
27 Failed notification requirements

28 Datum in its use of Glassey and McNeil's intellectual property licensed

1 certain uses of that IP to nCipher Inc. of Massachusetts and in doing so
2 breached the notice requirements. Of the Settlement Agreement

3
4 As an additional effect of Datum and later Symmetricom's refusal to provide
5 executed copies of the second agreement, is if that agreement doesn't exist
6 then Datum and its successor Symmetricom have no enforceable license of the
7 TTI architecture meaning that the Intellectual Property rights they have sold
8 to nCipher and which was later acquired by Thales is in fact still that of
9 Glassey and McNeil's.

10
11 Notice Failings

12 Additionally since Datum never notified Glassey and McNeil of the merger and
13 that Symmetricom, the successor owner of the IP would support the contract's
14 negotiation per the requirements of the Second Agreement it also further
15 stands that Datum itself also knew the second agreement was not in place and
16 as such it was in breach of the Co-Inventor agreement who's effect was in
17 place until all of its "future responsibilities" were properly met by the
18 follow-on agreements it specified be created.

19
20 Instead Glassey and McNeil as shareholders in Datum received only the same
21 shareholders merger notice all other shareholders received and no other
22 communications regarding the transfer or continued support of the IP per the
23 terms of the Co-Inventor Agreement. This failing also breached the IP
24 Maintenance Requirements of the settlements in the failure to notify Glassey
25 and McNeil per the contract of both the transfer of the property to the new
26 owner, and that the new owner agrees to meet all the agrees to honor the
27 terms and condition of the agreement.
28

1 Claim 3 - Ongoing Tortuous Interference

2 The Plaintiffs allege based on the dispute with Datum over its uncompensated
3 use of its derivative of the Glassey Trusted Timing Infrastructure and
4 through its acquisition of DDI, and in refusing to meet the contractual
5 requirements of its lawyers "Deal" Datum and its Successor Symmetricom
6 continues to tortuously interfere with Glassey and McNeil and their efforts
7 to protect their own IP and prosecute infringers against the core underlying
8 GeoSpatial IP's protected in the US Patent Number 6,370,629 which they assert
9 ownership over.

10
11
12 CAUSE OF ACTION - EMOTIONAL DISTRESS

13 Claim 1 - Emotional Distress in re Bosso/Book

14 Plaintiff, hereby incorporates by reference, as if fully stated again,
15 Previous claims, inclusive, and, the entire Introduction, above, as if fully
16 is set forth, above.

17
18 Within the past year, January 27, 2009, and, encompassing the past year, of
19 November 14, 2008, as defined and allowed under limitations to maintain an
20 action, (CCP § 340.6), Defendants Hastings inflicted emotional distress upon
21 Plaintiffs, and each of them. The legally and factually culpable conduct,
22 including, but not limited to, the following conduct:

23
24 Defendants Bosso/Book, and each of them, deficient performance (or omission
25 to perform), amounted to, and was tantamount to, less than a reasonably
26 prudent and competent attorney under similar circumstances, within the case
27 and matter contemplated, under the terms of the contract.
28

1 Defendants Bosso/Book and Jason Book in particular, owed a duty to fully
2 execute exhibit "three" within a prudent amount of time, retain such an
3 agreement, and provide the same to his clients as a prudent and competent
4 attorney (Rule 3-110). A breach of a fiduciary duty owed to Plaintiffs by
5 Defendant, Jason Brook, occurred by virtue of a failure to disclose to
6 Plaintiffs his failure to fully execute the subject agreement or produce
7 copies of those other agreements he asserted were properly executed. In
8 addition, after failure to fully execute the subject agreement defendant,
9 BOSSO/WILLIAMS, Jason Brook and Book and Book willfully and purposely and
10 intentionally attempted to deceive Plaintiffs into believing that he had
11 provided the subject agreement "several times" to them previously; an
12 independent violation of Rule 3-500 of the California Rules of Professional
13 Conduct. As an officer of the Court Cannon likewise had a responsibility to
14 provide the documents his client's represented they intended to execute in
15 order to obtain signatures on incomplete assignment agreements so that they
16 could misrepresent their ownership of specific Glassey and McNeil
17 Intellectual Properties.

18
19 Claim 2 - Intentional Infliction of Emotional Distress in
20 re Symmetricom and their Counsel Cannon

21 Plaintiff, hereby incorporates by reference, as if fully stated again,
22 Previous claims, inclusive, and, the entire Introduction, above, as if fully
23 is set forth, above. Within the past year, January 27, 2009, and,
24 encompassing the past year, of November 14, 2008, as defined and allowed
25 under limitations to maintain an action, (CCP § 340.6), Defendants
26 Symmetricom continued to inflict emotional distress upon Plaintiffs, and each
27 of them by refusing to acknowledge Glassey and McNeil's ownership of the IP
28 which Symmetricom licensed from them to obtain US Patent #6,370,629.

1
2 Likewise Glassey and McNeil assert that Defendant CANNON violated the ethical
3 statute in his refusal to produce any wet signed copies of any of the
4 agreements he claimed to us his client's executed, later claiming his clients
5 ordered him not to produce documents in response to Subpoena.

6
7 As such, Defendants Symmetricon(et Al) have attempted to deceive
8 Plaintiff, while simultaneously misrepresenting to Plaintiffs and in
9 negotiating use of Glassey and McNeil INTELLECTUAL PROPERTIES, about the non-
10 existence of the subject agreement, and that the Intellectual Property rights
11 of Glassey and McNeil posses with regard to their GeoSpatial Controls. The
12 misrepresentations asserted as having been performed by CANNON and Book and
13 continue through Symmetricon's current counsel.

14
15 These acts on the part of an officer of the court in withholding document
16 they originally asserted were executed is violation of Professional Rule of
17 Conduct 5-220

18
19
20
21 **RELIEF REQUESTED**

22
23 Rescission of Patent Assignment per the Co-Inventor
24 Agreement between the Parties

25
26 The relief requested is intended to clean up the patent ownership mess
27 Hastings and his successors made of the claims in US 6,370,629 such that the
28 assignment document submitted by Hastings to the US Patent Office would be

1 declared invalid and an order of the Court issued to complete the 'initial
2 requirements to define the specific uses and rights under the agreement that
3 Hastings use was limited to his existing patent only' and also to assign
4 those same rights to Glassey and McNeil for any and all foreign filings of US
5 6,370,629 as well.

6
7 Co-Inventors terms specify rescission for failure to perform
8 Because under the terms of the original and still binding Co-Inventor Section
9 4's "Default In compensation" terms for failing to meet the ongoing hurdles
10 of the Co-Inventor Agreement's section 3 which was entitled "Failure to make
11 Definitive Agreement" any and all claims against the IP filed in the patent
12 and licensed to Digital Delivery are void for breach and failure to perform.
13

14 Additionally based in the "Agreement IP Ownership reverts to Glassey and
15 McNeil for failing to comply with the forward responsibilities in producing
16 proper definition addendums to constrain the licensed Intellectual
17 Properties.
18

19 20 Damages against Symmetricom

21 Since Glassey's and McNeil's rights to file their own patent have been
22 prevented by Hastings actions in filing his with the claims that he agreed
23 would only belong to Glassey and McNeil means that Glassey and McNeil
24 reasonably share in all of those patents. Likewise additionally, the
25 Plaintiff's seek an order to Symmetricom to document its sale of IP to
26 nCipher and later that to THALES with regard to the limited uses of that IP
27 possible in timestamping systems not covered under the limited use license to
28 Hastings and his successors, and an award of fraud damages as the court sees

1 fit. As part of the rescission award specific notice of 'that only Glassey
2 and McNeil own specific claims #24 through #32 of the patent as issued
3 because those claims were negotiated to remain solely with Glassey and
4 McNeil.

5
6 Malpractice Claims and Infliction of Distress Claims

7 From Bosso and Book \$10MM USD in direct damages and fraud damages per the
8 court's discretion for malpractice in the violation of the fiduciary trust as
9 GMT's counsel, fraud in the misrepresentation of executed contracts, and the
10 ongoing tortuous interference with Glassey and McNeil's Economic Advantage.

11
12 Symmetricom

13
14 From Symmetricom as the successor to Datum and the operator of the "HP Atomic
15 Clock" Product Services offerings, 20MM in direct damages and an order to
16 cease and desist any interference with Glassey and McNeil's asserting their
17 ownership of Intellectual Properties protected under the patent issued in the
18 US and other countries globally. Additionally fraud damages as the Court
19 sees fit and appropriate.

20
21 Finally we seek an order forcing Symmetricom to produce the location of
22 properties withheld from Glassey by one of its customers which were sold to
23 Glassey by the US Bankruptcy Court and which Symmetricom has refused to
24 identify those devices existence or location or their date of destruction as
25 the sole provider of 'calibration and certification services' for that device
26 as its manufacturer and damages for withholding this information in contempt
27 of the US Bankruptcy Court Order.

1 Dated this 5-18-2010

2 Michael E. McNeil
3 Michael e. McNeil In Pro Se
4 PO Box 640
5 Felton CA 94018-0640
6 831-338-0182

7 Dated this 5-18-2010

8 Todd S. Glassey
9 Todd S. Glassey In Pro Se
10 50 W. San Fernando St, Suite 320
11 San Jose CA 95113
12 800-511-2301

13
14
15 P.O. Box 640
16 Felton, CA 95018-
17 0640
18 831-334-0182
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28

Exhibit 1 – Settlement Agreement Number 1 of 2

This exhibit contains the DATUM SETTLEMENT AGREEMENT to license DATUM to use the Glassey Trusted Timing Infrastructure in their own GPS-specific design. Their limited rights to use pertain to a version of this called TTI-v2 which Dave Robinson replaced Glassey's original TIME SOURCE SERVICE with DATUM's proprietary GPS Chipset.

The Settlement pertained ONLY to DATUM's use of this specific variant and derivatives of it. The purpose was to protect the DATUM GPS CHIPSET's as Building Blocks of Intellectual Properties which predate the TTI designs.

No other TTI rights are assigned including Glassey's TTVv1 – the technology Glassey originally presented to DATUM to interest them in building their own derivative as well as his follow-on designs.

ONLY the specifically laid out TTIv2 is being licensed to DATUM in this settlement.

*Exhibits
to 1st Amended
Complaint*

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Release ("Agreement") is entered into by and between DATUM, INC. ("DATUM"), on the one hand, and GLASSEY-MCNEIL TECHNOLOGIES ("GMT"), TODD GLASSEY ("GLASSEY"), and MICHAEL MCNEIL ("MCNEIL"), (sometimes collectively referred to as "GMT/GLASSEY/MCNEIL"), on the other hand.

SECTION ONE BACKGROUND

1.1 This Agreement is a mutual and complete compromise between the parties and is intended as a complete and final resolution and settlement of the respective differences, positions and claims of DATUM and GMT/GLASSEY/MCNEIL, as described below.

1.2 All parties hereto desire to avoid the risks and expenses attendant upon further litigation and to reach a mutual, full and final compromise and settlement of the parties' disputes, claims, causes of action and the like.

1.3 In or about February 1998 the parties began collaborating on the development of certain technologies related to electronic commerce and time verification, which included the development of certain intellectual property, technologies, trade secrets and confidential and proprietary information. The parties also collaborated on the development of marketing efforts related to electronic commerce and time verification. The parties' collaborative efforts continued through the end of 1998/early 1999.

1.4 From the parties' business relationship a dispute arose between DATUM and GMT/GLASSEY/MCNEIL. Among other things, the parties dispute ownership in and other rights to certain of the intellectual property, technologies, trade secrets and confidential and proprietary information developed or contributed during the parties relationship, including the Protected Technology, defined below. When the parties were unable to resolve the dispute informally, on or around August 20, 1999, DATUM filed a complaint (the "COMPLAINT") stating claims for, among other things, Breach of Contract, Breach of the Covenant of Good Faith and Fair Dealing,

Misappropriation of Trade Secrets and Proprietary Business Information, Trade Libel, Slander and Declaratory Relief.

SECTION TWO

DEFINITIONS

2.1 Protected Technology: Protected Technology includes any information, data, method, product, software, hardware, trade secrets, copyrights, documents, e-mails, technology, ideas, or inventions, disclosed, provided, produced, created in any form by GMT/GLASSEY/MCNEIL to, for, or in conjunction with DATUM between the initiation of the parties' relationship on February 1, 1998 through March 1, 1999, including any derivatives thereof, and any information, data, method, product, software, hardware, trade secrets, copyrights, documents, e-mails, technology, ideas, or inventions, disclosed, provided, produced, created in any form by DATUM to which GMT/GLASSEY/MCNEIL had, or was provided access to, or gained knowledge of or worked on between February 1, 1998 through March 1, 1999, including all derivatives thereof, including the Trusted Time Infrastructure ("TTI"), TTI II, or any further derivative or variation thereof, including but not limited to the Trusted Local Clocks and Trusted Master Clocks defined below.

2.2 Trusted Local Clocks: The Trusted Local Clock ("TLC") is a particular implementation of a trusted clock that is periodically certified to an upper clock, typically a Trusted Master Clock (TMC). The TLC provides time stamp tokens and temporal tokens. The TLC is a PCiv2.1 compliant card and assumed to be operating in an insecure host in an insecure environment. It uses a real time operating system to control the on-card functions.

2.3 Trusted Master Clocks: The Trusted Master Clock ("TMC") is a particular implementation of a trusted clock, synchronized to Coordinated Universal Time and made comparable to the time offered by a National Time Standard such as the National Institute of Science and Technology, which generates trusted time data which is sent to TLCs for time stamping and other certification purposes. The TMC also monitors and calibrates the TLCs.

2.4 Trusted Time Infrastructure: The term Trusted Time Infrastructure ("TTI") describes

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K & BOOK

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a particular system and process developed by Datum by which time can be affixed to an e-commerce document or transaction, or any other electronically transmitted information, in such a way that it can be free from outside alteration, thus providing a universal, secure and reliable way to ascertain when a transaction occurred or a document was received or sent.

2.5 Net Sales: Net Sales shall mean the amount invoiced for sales of Trusted Local Clocks and Trusted Master Clocks (collectively the "Licensed Products") by DATUM less the following deductions (to the extent they are not already reflected in the amount billed):

- (i) Discounts, refunds, and wholesaler chargebacks allowed and taken in amounts customary in the trade;
- (ii) Import, export, excise, sales or use taxes, tariffs and duties directly imposed and with reference to particular sales;
- (iii) Outbound transportation prepaid or allowed, including insurance.
- (iv) Amounts allowed or credited on rebates, returns or retroactive price deductions.

Licensed Products shall be considered "sold" when the amount billed out or invoiced to a third party has been received by DATUM. Licensed Products shall not be sold for less than commercially reasonable amounts, provided however, DATUM may provide Licensed Products as samples and promotional items in the normal course of business for no charge or reduced charge. If a Licensed Product is incorporated into another product or is sold in combination with other products or services and not invoiced separately, such Licensed Products shall be included in the Net Sales at the then current list price for such quantities of such Licensed Products with any discount from list price being applied proportionately to the discount from list price of the product into which the Licensed Product was incorporated or the list price of the other product sold, as the case may be. If there is then no current list price for such Licensed Product, the Net Sales will be based on the separate value of such Licensed Product and such other products or services.

Michael Merrill

a particular system and process developed by Datum by which time can be affixed to an e-commerce document or transaction in such a way that it can be free from outside alteration, thus providing a universal, secure and reliable way to ascertain when a transaction occurred or a document was received or sent.

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- (i) Discounts, refunds, and wholesaler chargebacks allowed and taken in amounts customary in the trade;
- (ii) Import, export, excise, sales or use taxes, tariffs and duties directly imposed and with reference to particular sales;
- (iii) Outbound transportation prepaid or allowed, including insurance.
- (iv) Amounts allowed or credited on rebates, returns or retroactive price deductions.

Licensed Products shall be considered "sold" when the amount billed out or invoiced to a third party has been received by DATUM. Licensed Products shall not be sold for less than commercially reasonable amounts, provided however, DATUM may provide Licensed Products as samples and promotional items in the normal course of business for no charge or reduced charge. If a Licensed Product is incorporated into another product or is sold in combination with other products or services and not invoiced separately, such Licensed Products shall be included in the Net Sales at the then current list price for such quantities of such Licensed Products with any discount from list price being applied proportionately to the discount from list price of the product into which the Licensed Product was incorporated or the list price of the other product sold, as the case may be. If there is then no current list price for such Licensed Product, the Net Sales will be based on the separate value of such Licensed Product and such other products or services.

SECTION THREE
TERMS OF SETTLEMENT

3.1 In consideration of the mutual covenants set forth herein, and in full settlement of the claims and causes of action asserted or held by DATUM and/or GMT/GLASSEY/MCNEIL, the parties agree as follows:

3.2 **Royalty:**

(a) DATUM agrees to pay to GMT/GLASSEY/MCNEIL a three percent (3%) royalty upon the Net Sales by DATUM of any DATUM Trusted Local Clocks and Trusted Master Clocks. The royalty shall be calculated based upon final sales as of the end of the calendar year in which a royalty may be calculated. The royalty shall be due within sixty (60) days of the end of each year the royalty is due.

(b) The duration of the royalty shall be three (3) years (years 2000, 2001 and 2002).

(c) The royalty shall be subject to a ceiling of \$150,000 per year. Under no circumstances shall DATUM be obligated to pay more than \$150,000 in royalties in any calendar year irrespective of the amount of its Net Sales in any calendar year.

GMT/GLASSEY/MCNEIL has no rights to any payment other than the 3% royalty and subject to the ceiling of \$150,000.

(d) DATUM agrees to advance \$50,000 of its royalty payment at the commencement of each year for which a royalty may be paid. The first advance payment shall be made per the wiring instructions below on or before January 7, 2000. Thereafter, the advance shall be paid within the first thirty days of each calendar year per the instructions below. Each of the three (3) \$50,000 advances shall be nonrefundable and shall not be subject to whether DATUM generates sufficient sales to generate the royalty payments but shall be creditable against the royalty earned pursuant to this section. All other royalty payments are subject to DATUM achieving sales of the two (2) products subject of the royalty.

(e) The first advance payment, due on or before January 7, 2000, shall be made by wire transfer to the following account:

Bank Routing No. 121139096
Bank Account No. 01-49350-5
Bank Name: Coast Commercial Bank
Bank Address: 720 Front Street
Santa Cruz, California 95060

All further payments shall be by wire transfer to the following account:

Bank Routing No.: 121139096
Bank Account No.: 04-50823-8
Bank Account Name: Glassey-McNeil Technologies
Bank Name: Coast Commercial Bank
Bank Address: 203 Mount Harmon Road
Scotts Valley, CA 95066

(f) Unless notified in a writing signed by GMT, GLASSEY and MCNEIL, and their legal counsel, changing the payees and/or destination of payment, DATUM will follow these instructions for all payments and will not be subject to liability for following such instructions.

3.2.1 Currency of Payments. All payments under this Agreement shall be made U.S. Dollars by wire transfer to such bank account as designated herein. Any payments due hereunder on Net Sales outside of the United States shall be payable in U.S. Dollars at the average of the rate of exchange of the currency of the country in which the Net Sales are made as reported in the New York edition of The Wall Street Journal, for the last three (3) business days of the period for which the royalties are payable.

3.2.2 Tax Withholding. If laws or regulations require the withholding of income taxes owed on account of royalties accruing under this Agreement, such taxes shall be deducted on a country-by-country basis by DATUM from such remittable royalty and will be paid by it to the proper taxing authority. Proof of payment shall be secured and sent to GMT/GLASSEY/MCNEIL as evidence of such payment.

3.2.3 Audit Rights re Royalty Payments: To the extent

GMT/GLASSEY/MCNEIL in good faith dispute the amount of royalties to which they are entitled pursuant to this Agreement, GMT/GLASSEY/MCNEIL may request an inspection of DATUM's accounting records reflecting the calculation of Net Sales. Such request may be made once per year while Datum's royalty payment obligations continue under this Agreement. Unless such request is made within thirty (30) days of GMT/GLASSEY/MCNEIL's receipt of a royalty payment from DATUM, the right to audit that payment is waived. The inspection shall be made only by a Certified Public Accountant ("CPA"), subject to DATUM's approval, which will not unreasonably be withheld, and conditioned upon execution of a confidentiality agreement regarding the review of DATUM's records, which shall include, among other things, a provision which prohibits the disclosure by the CPA of any information disclosed, learned or reviewed during the audit to GMT/GLASSEY/MCNEIL, except for the final calculation of the amount that the CPA contends DATUM owes under this Agreement. Unless otherwise mutually agreed to in writing, the inspection by the CPA shall take place at the law offices of Stradling, Yocca Carlson & Rauth in Newport Beach, California during normal business hours. No information inspected during the audit may be removed from the premises, other than that which is expressly permitted by this paragraph. For purposes of this audit, the CPA may review only the computer generated accounting records necessary to make a final calculation of royalties owed and shall not be given access to manufacturing documents, inventory records or any underlying invoices and records. GMT/GLASSEY/MCNEIL shall bear all its own costs and expenses incurred to conduct any audits. If the audit determines that an amount is owed by DATUM to GMT/GLASSEY/MCNEIL and that amount is within ten percent (10%) of the original amount paid by DATUM, GMT/GLASSEY/MCNEIL, or if the audit determines that no amount is owed, or if DATUM has overpaid, GMT/GLASSEY/DATUM shall also reimburse DATUM for all of DATUM's cost and expenses in handling any audit. DATUM shall have the right to offset any right to reimbursement under this provision from any future royalty payments.

3.3 Dismissal of Complaint: DATUM agrees to dismiss with prejudice the COMPLAINT within ten (10) days of the full execution of this Agreement.

3.4 Intellectual Property Rights Regarding the Protected Technology:

GMT/GLASSEY/MCNEIL disclaim any ownership in, or rights to, the Protected Technology and hereby acknowledge, represent and warrant that such Protected Technology is owned solely and exclusively by DATUM as its intellectual property, trade secrets and proprietary information.

GMT/GLASSEY/MCNEIL agrees not to contest DATUM's ownership of any Protected Technology or the labeling of the Protected Technology as intellectual property, trade secrets, and/or proprietary information.

3.5 Other Agreements Superseded and Terminated: GMT/GLASSEY/MCNEIL further

agree that, with the exception of this Agreement, which supersedes the terms of any prior agreements of the parties, all terms of all other agreements between the parties including, but not limited to any consulting agreements between the parties, any confidentiality or non-disclosure agreements, any value added reseller agreements and any other express, implied or oral agreements are hereby terminated and hereafter void. The parties mutually agree that as between DATUM and GMT/GLASSEY/MCNEIL no provision of any agreement between the parties, other than this Agreement and the settlement agreement relating to the parties' prior co-inventor agreement, shall be deemed to survive.

3.6 Protection of DATUM's Trade Secrets and Proprietary Information: From the

execution date of this Agreement and at all times thereafter, GMT/GLASSEY/MCNEIL shall not, and shall not permit any representatives, agents, assigns or affiliates, to use or disclose to any person or entity any Protected Technology. GMT/GLASSEY/MCNEIL expressly agree, represent and acknowledge that they shall not engage in, or be associated with, any business which uses, in any manner, any Protected Technology.

3.7 Availability of Injunctive Relief: Given the nature of DATUM's business,

GMT/GLASSEY/MCNEIL's involvement in DATUM's business and in the formulation and implementation of its business plans and strategies relating to the Protected Technology, and GMT/GLASSEY/MCNEIL's direct involvement with DATUM clients, GMT/GLASSEY/MCNEIL acknowledge and agree that the covenants of GMT/GLASSEY/MCNEIL and the restrictions on GMT/GLASSEY/MCNEIL contained in this Agreement are reasonable and necessary in order to protect the legitimate interests of DATUM, and that any violation thereof by

GMT/GLASSEY/MCNEIL or any affiliates would result in irreparable injuries to DATUM, for which damages would not, in and of themselves be an adequate remedy. Therefore, GMT/GLASSEY/MCNEIL acknowledge and agree that, in the event of a violation or breach by GMT/GLASSEY/MCNEIL or any affiliates of any of the covenants or any of the restrictions contained in this Agreement, DATUM shall be entitled to obtain, from any court of competent jurisdiction, temporary, preliminary and permanent injunctive relief, in addition to any other rights or remedies to which DATUM may be entitled under applicable law or equitable principles, without the necessity on the part of DATUM of having to post a bond or other security and without thereby limiting any other rights and remedies, including the recovery of monetary damages, that DATUM may have hereunder or under applicable law by reason of such violation or breach.

3.8 Representation of Non-disclosure: GMT/GLASSEY/MCNEIL represent and warrant that they have not disclosed any Protected Technology to any party other than Datum, its employees, agents, representatives.

3.9 Communication with Datum: GMT/GLASSEY/MCNEIL agree to refrain from any contact or communication with DATUM or any affiliated entities, including any officers, employees, former employees, agents, or representatives of DATUM or its affiliated entities. All communication on behalf of GMT/GLASSEY/MCNEIL which is directed at DATUM, its employees, agents or representatives must be directed to DATUM's legal counsel: John F. Cannon, Esq., Stradling, Yocca, Carlson & Rauth, 660 Newport Center Drive, Suite 1600, Newport Beach, California, 92660-6441. Further, all such communications must be made by legal counsel for GMT/GLASSEY/MCNEIL who is designated as follows: Jason Book, Esq., Boaso, Williams, Sachs, Book, Attack & Gallagher, 133 Mission Street, Suite 280, Santa Cruz, California 95061-1822.

3.10 No Communication Regarding Datum: GMT/GLASSEY/MCNEIL agree that they will not discuss any aspect of DATUM, including but not limited to DATUM's business, officers, employees, former employees, representatives, affiliated entities, transactions, or products with any person or entity, other than as expressly contemplated by this Agreement.

3.11 Release of Claims:

3.11.1 GMT/GLASSEY/MCNEIL's Release of Claims Against DATUM: GMT, GLASSEY and MCNEIL, for themselves and for and on behalf of GMT and any affiliated or related entities, assigns and successors in interest, if any, now or in the future, hereby irrevocably release, forgive and discharge DATUM and all of its current and former officers, directors, shareholders, partners, agents, employees, representatives, affiliates, parent, subsidiaries, and related entities, assigns and successors in interest, if any, now or in the future (collectively, the "DATUM Parties"), from any and all claims, demands, contracts, causes of action, obligations, debts, liabilities of any kind or nature whatsoever, whether known or unknown, which they now have or may have in the future, against the DATUM Parties. This release expressly includes any claims for which DATUM would bear an obligation of indemnity, pursuant to contract statute or otherwise to the person against whom GMT/GLASSEY/MCNEIL would have a claim. This release may be asserted by any of the Datum Parties and shall be a complete defense to any claim for which Datum would bear an indemnity obligation. Notwithstanding the foregoing, DATUM's obligations under this Agreement are expressly excepted from the foregoing release.

3.11.2 DATUM's Release of Claims Against GMT/GLASSEY/MCNEIL: DATUM agrees and acknowledges that DATUM on behalf of itself and any affiliated or related entities, assigns and successors in interest, if any, hereby irrevocably releases, forgives and discharges GMT/GLASSEY/MCNEIL and all of its officers, directors, shareholders, partners, agents, employees, representatives, affiliates, parents, subsidiaries, and related entities, assigns and successors in interest, if any, now or in the future (collectively, the "GMT Parties"), from any and all claims, demands, contracts, causes of action, obligations, debts, liabilities of any kind or nature whatsoever, whether known or unknown, which they now have or may have in the future, including those claims stated in the COMPLAINT, against the GMT Parties. This release expressly includes any claims for which GMT/GLASSEY/MCNEIL would bear an obligation of indemnity because such claim arose during and out of GMT/GLASSEY/MCNEIL's employment of the person against whom DATUM would have a claim. Notwithstanding the foregoing, GMT/GLASSEY/MCNEIL's obligations under this Agreement are expressly excepted from the foregoing release.

3.12 Civil Code Section 1542: With respect to the matters herein stated as the subject of release, the parties hereto do hereby mutually waive and relinquish any and all rights which any of

them may have under the provisions of Section 1542 of the Civil Code of the State of California, which Section reads as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

3.13 Settlement of Claims Against DATUM: GMT/GLASSEY/MCNEIL agree and acknowledge that, upon performance of this Agreement, DATUM shall have no further obligations under any consulting agreements, non-disclosure agreements, value added reseller agreements or any other agreement with GMT/GLASSEY/MCNEIL and that GMT/GLASSEY/MCNEIL waive any claims or causes of action any of them may have against DATUM arising out of such agreements, including, but not limited to, claims for damages and claims for the return of any intellectual properties allegedly disclosed to DATUM by GMT/GLASSEY/MCNEIL.

3.14 Attorney's Fees: DATUM and GMT/GLASSEY/MCNEIL shall bear their own costs and attorneys' fees in connection with their respective disputes and claims settled herein.

3.15 Termination of Payment Obligation and Survival of Non-Payment Terms: The parties agree and acknowledge that DATUM's royalty payment obligations terminate after the royalty payment derived from the third year of the royalty. Notwithstanding the foregoing, all other terms of this Agreement will remain in full force and effect after termination of DATUM's payment obligations.

SECTION FOUR

WARRANTIES AND REPRESENTATIONS

4.1 The parties hereto warrant and represent that no promise or inducement has been offered or made for this Agreement except as herein set forth, that this Agreement is executed without reliance on any statements or any representations not contained herein, and that this

Agreement reflects the entire settlement among the parties. The attorneys of record warrant and represent that they are satisfied that their respective clients fully understand the effect, significance and consequence of this Agreement. The terms, acknowledgments, warranties and representations made herein shall survive the execution and delivery of this Agreement, and shall be binding upon the respective heirs, representatives, and assigns and successors of each of the parties and their attorneys.

SECTION FIVE
NO ADMISSION OF LIABILITY

5.1 The parties hereto acknowledge and agree that this Agreement is entered into as a mutual compromise and settlement which is not in any respect or for any purpose to be deemed or construed as an admission or concession of any liability whatsoever on the part of any of the parties hereto.

SECTION SIX
CONFIDENTIALITY

6.1 The parties agree that this Agreement and its terms are confidential. The parties further agree that the confidentiality of this Agreement and its terms is a material term of this Agreement without which the parties would not have consented to the Agreement. The parties expressly agree that they will not disclose or discuss the terms of this Agreement with any person. GMT/GLASSEY/MCNEIL shall notify DATUM's legal counsel, in writing, of the receipt of any request for the disclosure of any confidential information. GMT/GLASSEY/MCNEIL shall cooperate with the efforts of DATUM to quash such subpoena or other legal process or to obtain a protective order, as DATUM deems appropriate. The parties shall have the right to provide required information concerning this Agreement to investors and potential investors, and to Affiliates in order to enable them to carry out the activities contemplated hereunder and in connection with strategic business needs. Any such disclosure shall be pursuant to a separate agreement of confidentiality between DATUM or GMT/GLASSEY/MCNEIL and any such third parties.

6.2 The parties further agree to maintain the confidentiality of any document or information which has been or is designated as confidential, including Protected Technology.

SECTION SEVEN

ENFORCEMENT OF AGREEMENT

7.1 If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation arising out of or relating to any of the provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

SECTION EIGHT
MISCELLANEOUS

8.1 This Agreement is subject to, governed by, and shall be construed in accordance with the laws of the State of California.

8.2 GMT/ GLASSEY/MCNEIL represent and warrant that they are the sole and rightful owners of the claims asserted in the dispute described in this Agreement and that any such claims have not been assigned or transferred to any unnamed party. DATUM represents and warrants that it is the sole and rightful owner of the claims asserted in the COMPLAINT and otherwise herein and that any such claims have not been assigned or transferred to any unnamed party.

8.3 This Agreement is enforceable and binding upon the parties hereto, their successors and assigns, and any agents or others under the control or direction of the parties. Moreover, both parties, as well as the signatories, hereby warrant and covenant that their respective representative signing this Agreement has full authority to bind the parties to the terms of this Agreement.

8.4 The parties may assign all rights and delegate all duties hereunder to an entity acquiring that portion of each parties' business to which this Agreement relates, or to any corporate successor by way of merger or consolidation, provided that the assignee delivers to DATUM or GMT/GLASSEY/MCNEIL, as appropriate, a statement that the assignee assumes the assigning party's obligations hereunder. GMT/GLASSEY/MCNEIL may assign its right to receive the royalty payments provided in paragraph 3.2 to any person or entity provided that DATUM receives notice in writing of such assignment signed by GMT, GLASSEY and MCNEIL.

8.5 This Agreement constitutes and contains the entire understanding and agreement of the parties and cancels and supersedes any and all prior negotiations, correspondence and understandings and agreements, whether verbal or written, between the parties respecting the subject matter hereof. No waiver, modification or amendment of any provision of this Agreement shall be valid or effective unless made in writing and signed by a duly authorized officer of each of the parties.

8.6 The provisions of this Agreement are severable, and if one or more provisions should be determined to be judicially unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable. The provisions of this Agreement shall be construed as separate provisions covering their subject matter in each of the separate counties and states in the United States in which DATUM transacts its business; to the extent that any provision shall be judicially unenforceable in any one or more of those counties or states, that provision shall not be affected with respect to each other county or state, each provision with respect to each county and state being construed as severable and independent.

8.7 The parties agree to take any acts, and execute any further documents, that may be reasonably necessary to accomplish and effect the terms of this Agreement.

8.8 This Agreement may be executed in counterparts and by fax, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement has been executed by the undersigned on the dates below indicated.

Dated: November 14, 1999


TODD GLASSEY

Dated: November 19, 1999


MICHAEL MCNEIL

Dated: November 17, 1999


GLASSEY MCNEIL TECHNOLOGIES

Dated: November 29, 1999

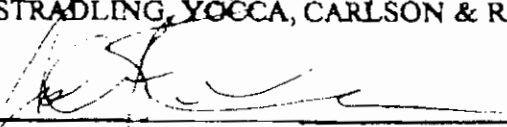

DATUM INC.

APPROVED AS TO FORM AND CONTENT:

STRADLING, YOECCA, CARLSON & RAUTH

Dated: November __, 1999

By:


John F. Cannon
Attorneys for DATUM, Inc.

BOSCO, WILLIAMS SACHS, BOOK, ATACK &
GALLAGHER

Dated: November 9, 1999

By:

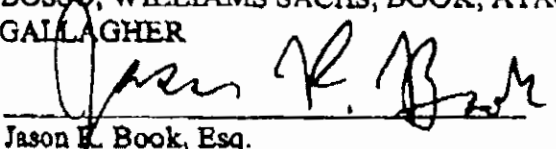

Jason R. Book, Esq.
Attorneys for Glassey-McNeil Technologies, Inc.
Todd Glassey, and Michael McNeil.

Exhibit 2 – Settlement Agreement Number 2 of 2

This exhibit contains the DATUM SETTLEMENT AGREEMENT (aka the Controlling Access Settlement Agreement) which was to acknowledge DATUM's DDI division's limited use the Glassey GEOSPATIAL DIGITAL CONTROLS in their already existing Confidential Courier product.

No other GEOSPATIAL rights are assigned and this is the basis of the disputed IP ownership in this matter.

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Release ("Agreement") is entered into by and between DATUM, INC. ("DATUM") and DIGITAL DELIVERY INC. ("DDI"), on the one hand, and GLASSEY-MCNEIL TECHNOLOGIES ("GMT"), TODD GLASSEY ("GLASSEY") and MICHAEL E. MCNEIL ("MCNEIL") (collectively referred to as "GMT/GLASSEY/ MCNEIL"), on the other hand.

SECTION ONE

BACKGROUND

1.1 GLASSEY and MCNEIL and DDI entered into a Co-Inventor Agreement, dated October 26, 1998 (the "Co-Inventor Agreement"), pursuant to which those parties agreed, on an interim basis, to certain rights and interests in intellectual property and to certain future payment obligations of DDI, pending the execution of a definitive agreement with respect to such intellectual property.

1.2 On or about July 29, 1999, DATUM consummated a merger whereby DDI became a wholly owned subsidiary of DATUM.

1.3 On or about August 20, 1999, DATUM filed a complaint (the "COMPLAINT") stating claims against GMT/GLASSEY/MCNEIL for, among other things, Breach of Contract, Breach of the Covenant of Good Faith and Fair Dealing, Misappropriation of Trade Secrets and Proprietary Business Information, Trade Libel, Slander and Declaratory Relief.

1.4 DATUM, DDI and GMT/GLASSEY/MCNEIL desire to definitively resolve and terminate the interim arrangements arising from the Co-Inventor Agreement, to avoid the risks and expenses attendant upon litigation and to reach a mutual, full and final compromise and settlement of the parties' matters, claims, causes of action and the like with respect the Co-Inventor Agreement, the Assembly, Distribution and Use of Digital Information Patent, the Controlling Access Patent and the Phase II Technology (as defined below).

1.5 This Settlement Agreement is a mutual and complete compromise between the parties and is intended as a complete and final resolution and settlement of the respective differences, positions and claims of DDI, DATUM and GMT/GLASSEY/MCNEIL, with respect the Co-Inventor Agreement, the Assembly, Distribution and Use of Digital Information Patent, the Controlling Access Patent and the Phase II Technology.

SECTION TWO

DEFINITIONS

2.1 The Assembly, Distribution and Use of Digital Information Patent: U.S. Patent No. 5,646,992 issued to DDI on July 8, 1997 for certain data and file protection and encryption technology. One of the products produced under this patent is called the Confidential Courier, which is described as an electronic transmittal envelope which can be opened only by specifically designated persons having the encoded passwords.

2.2 Controlling Access Patent: A US and certain foreign countries patent pending covering the expansion of technology covered by the Assembly, Distribution and Use of Digital Information Patent to include the new technology of geo-positioning and time/data encryption with respect to digital data and file assembly, distribution, use and access.

2.3 Phase II Technology - Phase II Technology refers to the method of authentication, encryption and transmission of date/time and/or location data for the purpose of linking together two or more disparate electronic components, such that a trust model is established between them. Such physical elements must individually be capable of computational and cryptographic functionality, but computationally may be isolated from one another. Such electronic components must be physically secure, and communicate with each other over communications channel(s) which may themselves be insecure.

SECTION THREE
TERMS OF SETTLEMENT

3.1 In consideration of the mutual covenants set forth herein, and in full settlement of the claims and causes of action asserted or held by DDI and/or GMT/GLASSEY/MCNEIL under the Co-Inventor Agreement, the parties agree as follows:

3.2 Assignment of Controlling Access Patent: GMT/GLASSEY/MCNEIL assign all rights, title and interest in the Controlling Access Patent and the application therefor, to DATUM.

3.3 Ownership of and License to Use Phase II Technology: DDI and DATUM acknowledges that GMT/GLASSEY/MCNEIL owns all rights, title and interest in the Phase II Technology, but GMT/GLASSEY/MCNEIL hereby grants DATUM a perpetual, non-exclusive, irrevocable, assignable, sub-licensable, worldwide license for use of the Phase II Technology and derivatives thereof, with rights to sublicense, in connection with the Confidential Courier product and other products and technology covered by the Controlling Access Patent.

3.4 Payment: DATUM will pay to GMT/GLASSEY/MCNEIL \$300,000 upon full execution of this Agreement. Payment shall be wired within 24 hours of execution as follows:

Bank Routing No. 121139096

Bank Account No. 01-49350-5

Bank Name: Coast Commercial Bank

Bank Address: 720 Front Street
Santa Cruz, California 95060

3.5 Dismissal of Complaint: DATUM agrees to dismiss with prejudice the COMPLAINT within ten (10) days of the full execution of this Agreement

3.6 Acknowledgment of Rights Under the Assembly, Distribution and Use of Digital Information Patent GMT/GLASSEY/MCNEIL disclaim and waive any rights to the Assembly,

Distribution and Use of Digital Information Patent and the technology described therein and agree not to make, use or sell any products developed using or derived from the Phase II Technology which also include the technology described in or covered by the Assembly, Distribution and Use of Digital Information Patent. GMT/GLASSEY/MCNEIL explicitly acknowledge that they had no participation in the invention or patent application process which resulted in the U.S. Patent No. 5,646,992 issued to DDI on July 8, 1997.

3.7 Co-Inventor Agreement Terminated. In addition and without duplication, upon the execution of this Agreement and payment of the amount specified in paragraph 3.4, above the Co-Inventor Agreement shall be terminated, and this Agreement shall be the only agreement of the parties with respect to the subject matter of the Co-Inventor Agreement and this Agreement. Such subject matter includes without limitation the future payment obligations and division of intellectual property rights set forth in the Co-Inventor Agreement. The parties hereto acknowledge and agree that the settlement payment constitutes the satisfaction in full of any claims by GMT/GLASSEY/MCNEIL for compensation of any kind pursuant to the Co-Inventor Agreement.

3.8 Availability of Injunctive Relief: GMT/GLASSEY/MCNEIL acknowledge and agree that the covenants of GMT/GLASSEY/MCNEIL and the restrictions on GMT/GLASSEY/MCNEIL contained in this Agreement are reasonable and necessary in order to protect the legitimate interests of DATUM, and that any violation thereof by GMT/GLASSEY/MCNEIL or any affiliates would result in irreparable injuries to DATUM, for which damages would not, in and of themselves, be an adequate remedy. Therefore, GMT/GLASSEY/MCNEIL acknowledge and agree that, in the event of a violation or breach by GMT/GLASSEY/MCNEIL or any affiliates of any of the covenants or any of the restrictions contained in this Agreement, DATUM shall be entitled to obtain, from any court of competent jurisdiction, temporary, preliminary and permanent injunctive relief, in addition to any other rights or remedies to which DATUM may be entitled under applicable law or equitable principles, without the necessity on the part of DATUM of having to post a bond or other security and without thereby limiting any other rights and remedies, including the recovery of monetary damages, that DATUM may have hereunder or under applicable law by reason of such violation or breach.

3.9 Release of Claims:

3.9.1 GMT/GLASSEY/MCNEIL's Release of Claims Against DATUM and DDI

GMT, GLASSEY and MCNEIL, for themselves and for themselves and for and on behalf of GMT and any affiliates, related entities, assigns and successors in interest, if any, now or in the future, hereby irrevocably release, forgive and discharge DATUM and DDI and all of their officers, directors, shareholders, partners, agents, employees, representatives, affiliates, parent, subsidiaries, and related entities, assigns and successors in interest, if any, now or in the future (collectively, the "Datum Parties"), from any and all obligations, responsibilities and liabilities relating to or arising out of the Co-Inventor Agreement against the Datum Parties. Notwithstanding the foregoing, DATUM's obligations under this Agreement are expressly excepted from the foregoing release.

3.9.2 DATUM's and DDI's Release of Claims Against

GMT/GLASSEY/MCNEIL: DATUM and DDI agree and acknowledge for themselves and for themselves and for and on behalf of DATUM and any affiliates, related entities, assigns and successors in interest, if any, now or in the future, that GMT/GLASSEY/MCNEIL are released and fully discharged from any and all obligations, responsibilities and liabilities to DATUM or DDI relating to or arising out of the Co-Inventor Agreement. Notwithstanding the foregoing, GMT/GLASSEY/MCNEIL's obligations under this Agreement are expressly excepted from the foregoing release.

3.9 Civil Code Section 1542: With respect to the matters herein stated as the subject of release, the parties hereto do hereby mutually waive and relinquish any and all rights which any of them may have under the provisions of Section 1542 of the Civil Code of the State of California, which Section reads as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

3.10 Attorney's Fees: DATUM, DDI and GMT/GLASSEY/MCNEIL shall bear their own costs and attorneys' fees in connection with their respective disputes and claims settled herein.

SECTION FOUR

WARRANTIES AND REPRESENTATIONS

4.1 The parties hereto warrant and represent that no promise or inducement has been offered or made for this Agreement except as herein set forth, that this Agreement is executed without reliance on any statements or any representations not contained herein, and that this Agreement reflects the entire settlement among the parties. The attorneys of record warrant and represent that they are satisfied that their respective clients fully understand the effect, significance and consequence of this Agreement. The terms, acknowledgments, warranties and representations made herein shall survive the execution and delivery of this Agreement, and shall be binding upon the respective heirs, representatives, and assigns and successors of each of the parties and their attorneys.

SECTION FIVE

NO ADMISSION OF LIABILITY

5.1 The parties hereto acknowledge and agree that this Agreement is entered into as a mutual compromise and settlement which is not in any respect or for any purpose to be deemed or construed as an admission or concession of any liability whatsoever on the part of any of the parties hereto.

SECTION SIX
CONFIDENTIALITY

6.1 The parties agree that this Agreement and its terms are confidential. The parties further agree that the confidentiality of this Agreement and its terms is a material term of this Agreement without which the parties would not have consented to the Agreement. The parties expressly agree that they will not disclose or discuss the terms of this Agreement with any person. GMT/GLASSEY/MCNEIL shall notify DATUM's legal counsel, in writing, of the receipt of any request for the disclosure of any confidential information. GMT/GLASSEY/MCNEIL shall cooperate with the efforts of DATUM to quash such subpoena or other legal process or to obtain a protective order, as DATUM deems appropriate. The parties shall have the right to provide required information concerning this Agreement to investors and potential investors, and to Affiliates in order to enable them to carry out the activities contemplated hereunder and in connection with strategic business needs. Any such disclosure shall be pursuant to a separate agreement of confidentiality between DATUM or GMT/GLASSEY/MCNEIL and any such third parties.

6.2 The parties further agree to maintain the confidentiality of any document or information which has been or is designated as confidential.

SECTION SEVEN
ENFORCEMENT OF AGREEMENT

7.1 If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation arising out of or relating to any of the provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

SECTION EIGHT
MISCELLANEOUS

8.1 This Agreement is subject to, governed by, and shall be construed in accordance with the laws of the State of California.

8.2 GMT/ GLASSEY/MCNEIL represent and warrant that they are the sole and rightful owners of the claims asserted in the dispute described in this Agreement and that any such claims have not been assigned or transferred to any unnamed party. DATUM and DDI represent and warrant that DATUM is the sole and rightful owner of the claims asserted in the COMPLAINT and otherwise herein and that any such claims have not been assigned or transferred to any unnamed party.

8.3 This Agreement is enforceable and binding upon the parties hereto, their successors and assigns, and any agents or others under the control or direction of the parties. Moreover, both parties, as well as the signatories, hereby warrant and covenant that their respective representative signing this Agreement has full authority to bind the parties to the terms of this Agreement.

8.4 The parties may assign all rights and delegate all duties hereunder to an entity acquiring that portion of each parties' business to which this Agreement relates, or to any corporate successor by way of merger or consolidation, provided that the assignee delivers to DATUM or GMT/GLASSEY/MCNEIL, as appropriate, a statement that the assignee assumes the assigning party's obligations hereunder.

8.5 This Agreement constitutes and contains the entire understanding and agreement of the parties and cancels and supersedes any and all prior negotiations, correspondence and understandings and agreements, whether verbal or written, between the parties respecting the subject matter hereof. No waiver, modification or amendment of any provision of this Agreement shall be valid or effective unless made in writing and signed by a duly authorized officer of each of the parties.

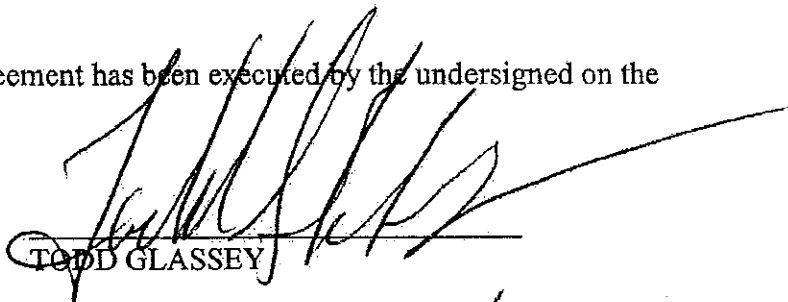
8.6 The provisions of this Agreement are severable, and if one or more provisions should be determined to be judicially unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable. The provisions of this Agreement shall be construed as separate provisions covering their subject matter in each of the separate counties and states in the United States in which DATUM transacts its business; to the extent that any provision shall be judicially unenforceable in any one or more of those counties or states, that provision shall not be affected with respect to each other county or state, each provision with respect to each county and state being construed as severable and independent.

8.7 The parties agree to take any acts, and execute any further documents, that may be reasonably necessary to accomplish and effect the terms of this Agreement.

8.8 This Agreement may be executed in counterparts and by fax, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement has been executed by the undersigned on the dates below indicated.

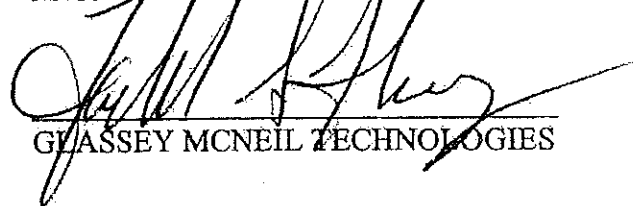
Dated: November 19, 1999


TODD GLASSEY

Dated: November 19, 1999


MICHAEL MCNEIL

Dated: November 19, 1999


GLASSEY MCNEIL TECHNOLOGIES

Dated: November ____, 1999

DATUM, INC.

Dated: November ____, 1999

DIGITAL DELIVERY, INC.

APPROVED AS TO FORM AND CONTENT:

STRADLING, YOCCA, CARLSON & RAUTH

Dated: November __, 1999 By:

John F. Cannon

Attorneys for DATUM, Inc. and Digital Delivery Inc.

BOSSO, WILLIAMS SACHS, BOOK, ATACK &
GALLAGHER

Dated: November 19, 1999 By:



Jason R. Book, Esq.

Attorneys for Glassey-McNeil Technologies, Inc.
Todd Glassey, and Michael McNeil.

Exhibit 3 – CONFIDENTIAL COURIER PATENT - 5,646,992

This exhibit contains the DIGITAL DELIVERY CONFIDENTIAL COURIER PATENT originally filed by DDI. It is these claims and only these claims which #6,370,629 was to amend.

Exhibit 4 – “GEOSPATIAL CONTROLS PATENT” - US 6,370,629

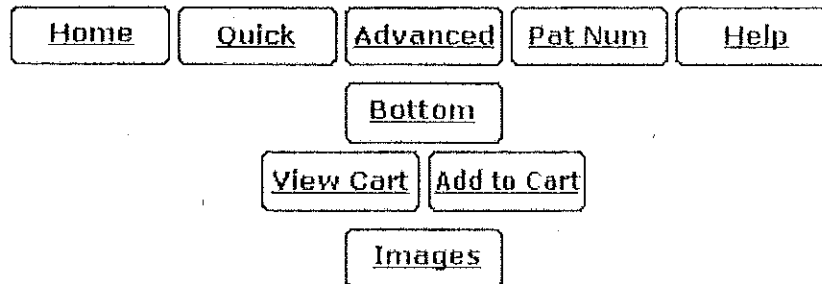
This patent was only supposed to be a direct amendment to the earlier patent 5,646,992, for adding GEOSPATIAL DIGITAL CONTROLS in their already existing Confidential Courier product. Any other additions to that patent are prohibited meaning at the very least claims 24 through 32 were never authorized or intended to be assigned to DDI or its successors. They rather pertain to Exhibit 13, the Analysis Document for Infringers against Rights Glassey and McNeil are supposed to own exclusively of DDI or its successors. Also includes foreign filings.

**Exhibit 5 – LIMITED USE ASSIGNMENTS WITH NO PAYMENT FOR
PATENT - US 6,370,629**

The Limited Use Assignment of the IP's for the filing of the patent. This assignment requires other documents to be produced to properly acknowledge the assignment and the exact scope of the license, which DDI and later DATUM refused to produce activating the rescission clause (section 4, 3, and 2c and 2e) of the original CO-INVENTORS agreement.

Copy of the official filing with the USPTO showing the misrepresentation by HASTINGS that he owns all rights and licensing capabilities under the GeoSpatial IP's which this patent clearly exceeded the use of.

USPTO PATENT FULL-TEXT AND IMAGE DATABASE



(1 of 1)

United States Patent
Subler , et al.

5,646,992
July 8, 1997

Assembly, distribution, and use of digital information

Abstract

Hierarchically organized graphical representations of items and groups of the items of digital information which are available to be ordered by a user are displayed. The user interactively explores the representations and selects items or groups to be ordered, using a pointer. While the graphical representations are being displayed, a list of items or groups which have been selected for inclusion in an order is also displayed. Software is executed which automatically determines the configuration of the computer, and matches the configuration with the stored configuration information prior to the user placing an order. A user may automatically be given access to items in a later revision of the medium if the user had access to the items in an earlier revision.

Inventors: **Subler; Ronald J.** (Charlestown, MA), **Hastings; Thomas Mark** (Lexington, MA)

Assignee: **Digital Delivery, Inc.** (Bedford, MA)

Appl. No.: **08/126,217**

Filed: **September 23, 1993**

Current U.S. Class:

705/53 ; 380/281; 705/26; 705/56

Current International Class:

G06Q 10/00 (20060101); G06F 1/00 (20060101); G06F 21/00 (20060101); G11B 20/00 (20060101); H04L 009/00 ()

Field of Search:

380/3,4,5,9,10,21,23,24,25,30,49,50,63

References Cited [Referenced By]

U.S. Patent Documents

<u>4528643</u>	July 1985	Freeny
<u>4905163</u>	February 1990	Garber et al.
<u>5276901</u>	January 1994	Howell et al.
<u>5319705</u>	June 1994	Halter et al.
<u>5412717</u>	May 1995	Fischer

Claims

What is claimed is:

1. A method for controlling access to a subset of items arbitrarily selected from among a larger set of items of digital information, comprising

encrypting said items belonging to said set using encryption keys, each of said items belonging to said set being encrypted using a corresponding one of said encryption keys, said corresponding one of said encryption keys being unique among said encryption keys used for encrypting said items belonging to said set, and

providing a decryption key which permits decryption of said items belonging to said arbitrarily selected subset of items.

2. The method of claim 1 wherein said encryption keys are associated with corresponding decryption keys, and said method further comprises

encrypting said decryption keys using a single global encryption key,

said global decryption key being said decryption key which is independent of the composition of said arbitrarily selected subset.

3. The method of claim 1 further comprising

generating a request for access to said items belonging to said subset,

incorporating in said request a request encryption key based on information unique to said request, said request encryption key being associated with a corresponding request decryption key,

encrypting said global decryption key in accordance with said request encryption key, and

decrypting said global decryption key in accordance with said request decryption key.

4. The method of claim 3 wherein said request for access to said items comprises an order placed by a computer.

5. The method of claim 3 wherein said information unique to said request comprises information associated with said computer.

6. The method of claim 3 wherein said information unique to said request is based on randomized data.

7. The method of claim 3 wherein said information unique to said request is based on a serial number of a medium on which said digital information is stored.

8. The method of claim 1 wherein said encryption keys are associated with corresponding decryption keys, and said method further comprising

recording said larger set of items on a high-capacity random access storage medium, and
recording said decryption keys on said medium.

9. The method of claim 8 further comprising encrypting said decryption keys prior to recording on said medium.

10. A method for controlling access to a subset of items arbitrarily selected from among a larger set of items of digital information, comprising

recording said larger set of items on a high-capacity storage medium, and

encrypting said items belonging to said set using encryption keys, each of said items belonging to said set being encrypted using an encryption key which is unique among said items belonging to said set, said encryption keys being associated with corresponding decryption keys, and

encrypting said decryption keys using a single global encryption key, said global encryption key being associated with a corresponding global decryption key, said global decryption key permitting decryption of said items belonging to said arbitrarily selected subset of items,

recording said decryption keys on said medium,

generating a request for access to said items belonging to said subset,

incorporating in said request a request encryption key based on information unique to said request, said request encryption key being associated with a corresponding request decryption key,

encrypting said global decryption key in accordance with said request encryption key, and

decrypting said global decryption key in accordance with said request decryption key.

11. Apparatus for controlling access to a subset of items arbitrarily selected from among a larger set of items of digital information, comprising

an encryption mechanism for encrypting said items belonging to said set using encryption keys, each of said items belonging to said set being encrypted using an encryption key which is unique among said items belonging to said set, and

a decryption key provider for providing a decryption key permitting decryption of said items belonging to said arbitrarily selected subset of items.

12. A method for restricting use of decryption keys which are provided to a user for the purpose of allowing decryption of information stored on a high-capacity storage medium, comprising,

encrypting the respective decryption keys using respectively different encryption keys,

providing the decryption keys to the user, and

enabling the user to decrypt the respective decryption keys using the respective encryption keys.

13. The method of claim 12 wherein said encryption keys are generated based on information unique to a computer on which said information is to be used.
14. The method of claim 12 wherein said encryption keys are generated based on randomized information.
15. The method of claim 12 wherein said information unique to said computer comprises a network address.
16. The method of claim 12 wherein said information unique to said computer comprises a computer serial number.
17. The method of claim 12 wherein said information unique to said computer comprises a disk serial number.
18. The method of claim 12 wherein said information which is unique to a single computer is delivered, from said computer to a location where said encrypting is done, as part of a request for access to said encrypted information.
19. A method for enabling a publisher to control access to digital information items distributed to users in the form of successive revisions of a high-capacity random access storage medium, comprising
- encrypting said digital information items as distributed on said high-capacity random access storage medium,
- giving a user access to selected ones of said items by providing decryption information for decrypting said selected items,
- storing information indicative of items to which users had been given access in earlier revisions of said medium, and
- enabling a user automatically to have access to items in a later revision of said medium if said user had access to said items in an earlier revision.
20. A method for controlling access to items of digital information stored on a high capacity storage medium, comprising
- encrypting one group of said items by a mechanism which enables decryption based on a single decryption key not recorded on said medium, and
- encrypting another group of said items by a mechanism which requires different decryption keys, not recorded on said medium, for each of said other items.
21. The method of claim 20 further comprising
- storing information on said medium which indicates which of said items belong to which of said groups.

Description

BACKGROUND OF THE INVENTION

This invention relates to assembly, distribution, and use of digital information.

Assembly, distribution, and use of information in digital form is fast becoming the norm rather than the exception to using "hard" copy. Virtually every kind of information may be treated in this way: sounds and music, executable programs, databases, pictures, animations, and fonts. The devices for embodying the digital information also vary widely. Examples include high-capacity storage media, like CD-ROMs, and switched telephone network communication.

In the case of CD-ROMs, publishers often already have available bundles of digital information which are being distributed in other modes (for example, on low-density diskettes). Because of the large capacity of CD-ROMs many bundles of digital information may be stored on a single disk. The bundles may be related, as in a set of different type fonts, or they may be unrelated. The publisher assembles the different bundles and creates a master data file which is then used to produce multiple identical disks for distribution.

A bundle stored on the CD-ROM may include not only the content which interests the end user (e.g., the text of an encyclopedia), but also executable programs which enable the user to find and make use of the content.

SUMMARY OF THE INVENTION

In general, in one aspect, the invention features a graphical user interface for aiding use of a group of items of digital information. Hierarchically organized graphical representations of the items and groups of the items which are available to be ordered by the user are displayed to the user. The user interactively explores the representations and selects items or groups to be ordered, using a pointer. While the graphical representations are being displayed, a list of items or groups which have been selected for inclusion in an order is also displayed.

Embodiments of the invention include the following features. The graphical user interface enables a user to preview additional detailed information concerning an item when a representation of an item is displayed, using a pointer. Also displayed are representations of actions which may be invoked, using a pointer, to cause an order to be effected and to enable a user to have access to an item that has been ordered.

In general, in another aspect, the invention features aiding a user in placing an order for access at a computer to an item of digital information offered by a distributor. Stored configuration information which identifies configurations of computers sufficient to enable use of the item is distributed to the user. Software is executed which automatically determines the configuration of the user's computer, and matches the computer configuration with the stored configuration information. A signal is issued to the user, prior to the user placing the order, if the configuration and the stored configuration information do not match.

Embodiments of the invention include the following features. The item of digital information is distributed on a high-capacity random access storage medium. The configuration information is also stored on the medium, as is the software which automatically determines the configuration and matches the computer configuration with the stored configuration information.

In general, in another aspect, the invention features enabling a publisher to control ordering of items of digital information by a user from among a larger set of items of digital information made available by the publisher. The publisher is enabled to store packaging information identifying packages of items which are available for ordering. The user is enabled to select packages for ordering and is prevented from ordering items in bundles other than packages included in the packaging information.

Embodiments of the invention include the following features. The bundles which the user is prevented from ordering include individual items and supersets of the packages. The items in the larger set are made available to the user as recorded information on a high-capacity random access storage medium. The packaging information is recorded on the same storage medium. At least one of the items may belong to more than one

of the packages. The packaging information also defines packages of packages which are available for ordering.

In general, in another aspect, the invention features controlling access to a subset of items arbitrarily selected from among a larger set of items of digital information. Each of the items belonging to the set are encrypted using an encryption key which is unique among the items belonging to the set. A decryption key is provided which is sufficient to permit decryption of the items belonging to the arbitrarily selected subset of items.

Embodiments of the invention include the following features. The encryption keys are associated with corresponding decryption keys, which are themselves encrypted using a single global encryption key (the decryption key mentioned above) that is independent of the composition of the arbitrarily selected subset. A request by the user (e.g., an order) for access to the items belonging to the subset incorporates a request encryption key based on information unique to the request. The request encryption key has an associated request decryption key. The global decryption key is encrypted in accordance with the request encryption key and decrypted in accordance with the request decryption key. The information unique to the request comprises information associated with the computer. The larger set of items is recorded on a high-capacity random access storage medium and the decryption keys are also recorded on the medium. The decryption keys are encrypted prior to recording on the medium.

In general, in another aspect, the invention features restricting use of a decryption key for the purpose of decrypting an encrypted item stored on a high-capacity storage medium usable with more than one computer. The decryption key is encrypted using information which is unique to a single computer and later decrypted for use in the single computer to decrypt the encrypted item.

Embodiments of the invention include the following features. The information unique to the computer may include a network address or a computer serial number, or may be based on random information derived from the state of the computer system, or may incorporate a serial number of the storage medium. The information which is unique to a single computer may be delivered, from the computer to a location where the encrypting is done, as part of a request for access to the encrypted item.

In general, in another aspect, the invention features aiding a publisher in assembling items of digital information for mastering on a high-capacity random access storage medium by automatically verifying the existence and integrity of each of the items prior to assembly for mastering.

In general, in another aspect, the invention features enabling a publisher to control access to digital information items distributed to users in the form of successive revisions of a high-capacity random access storage medium. The digital information items are in encrypted form on the high-capacity random storage medium. A user is given access to selected ones of the items by providing decryption information suitable for decrypting the selected items, storing information indicative of items to which users had been given access in earlier revisions of the medium, and enabling a user automatically to have access to items in a later revision of the medium if the user had access to the items in an earlier revision.

Among the advantages of the invention are the following.

A wide range of benefits are provided by the invention both to the user and to the publisher. The publisher is provided with powerful tools both for marketing and for controlling access to items to be distributed. For marketing purposes, the publishers may include, e.g., on a CD-ROM, digital information implementing a wide range of marketing approaches, including previews of items, information describing the items, disabled versions of the items, and icons representing the items.

Publishers may easily maintain information regarding successive revisions of titles being distributed, and may

arrange for users to have automatic access in later revisions to items that they paid for in earlier revisions.

The publisher can provide a large number and wide variety of items to a user, permitting the user to browse and preview the items, giving the user the opportunity to pick and pay for only those items of interest. The publisher need not fear that other items made available to the user, but not paid for, can be used.

The packaging of items in the system allows publishers to create item groupings that are sensible from a marketing or other viewpoint, and to present those groupings to the user as products. The product groupings can be revised and updated as needed.

The publisher can include the item grouping information and software for previewing, browsing, and ordering all on a single CD-ROM.

Prechecking the items during pre-mastering assures that the final CD-ROM will include the items intended and that they will be usable.

The user is provided with a powerful, easy-to-use interface to browse through and analyze the features of a wide range of items and product groupings, to pick and choose those which it wishes to order, to place the order, and then to install the items on his computer. This provides an easy and highly effective way to shop, not only for software, and databases, but for virtually any product.

For items which are to be loaded into and used on a local computer, the user can be assured, prior to placing an order, that the item will operate with the configuration represented by the local computer.

Giving access to multiple items via a single decryption key provided to the user when the order is accepted saves time and effort.

Other advantages and features will become apparent from the following description and from the claims.

DESCRIPTION

We first briefly describe the Figures.

FIG. 1 is an overall block diagram of a computer-based system for assembling, distributing, and using digital information on a CD-ROM.

FIG. 2 is a block diagram of a computer-based system for pre-mastering a CD-ROM.

FIG. 3 is a block diagram of a database structure.

FIG. 4 is a flow diagram of an encryption/decryption process.

FIGS. 5 through 25 are views of displays shown to an end user.

FIG. 26 is a view of a display shown to an order taker.

FIGS. 27 through 30 are views of displays shown to a pre-mastering user.

Referring to FIG. 1, in one example of the invention, a system 10 enables a publisher 12 to pre-master and distribute digital information on CD-ROMs 14, and an end user 16 easily to make use of the information.

Generally, the result of the publisher's work is a set of pre-mastered data 22 which is in form to permit mastering of multiple CD-ROMs 14 using a conventional mastering system 24. The pre-mastered data is set up by a pre-mastering system 18 which includes software running on a workstation. The inputs to the pre-mastering system 18 include end user system software 26, bundles of digital information 28, 30 (called valued and non-valued items, respectively), facilities 32 associated with the end user system software, and information entered by the user 12 using a keyboard or mouse (not shown). Valued items may be items which the user may order and pay for, such as clipart images. Non-valued items may be items which need not be paid for, such as free games, or marketing information describing a range of items. Among other things, the pre-mastering system checks and verifies the valued items 28 being included in the pre-mastering data set. The valued items are stored on the CD-ROM in encrypted form and are unusable by the end user until he has paid for their use. The pre-mastering system also maintains a pre-mastering database 34 which maintains information about the different sets of pre-mastered data 22.

The end user gets access to and makes use of digital information stored on the CD-ROM with the aid of end user system software 36. End user system software 36 is a version of the original end user system software 26 which has been configured by the pre-mastering system 18, combined with selected facilities 32, and stored on the CD-ROM. The software 36 is loaded into and runs on the user's workstation. Among other things, the end user system software creates and maintains an end user database 38, e.g., on the workstation hard disk.

The end user system software includes code which allows the user to browse through information representing the items, to preview certain items, to generate and send a purchase order 40 to an order taking system 42, to receive back an acknowledgment of the order, to "unlock" the order items, and to install them on the workstation.

The purchase order indicates which of the valued items (or groups of valued items) the user wishes to order. The order may also include information which is unique to the particular workstation being used and assures that the acknowledgment returned in response to the order will permit use of the items only on the particular workstation. The order may be delivered to the order taker under program control (e.g., via FAXmodem, modem, network packet, or cable system) or under user control (e.g., via voice telephone call, FAX, or printed matter)

Information stored on the CD-ROM with respect to a valued item includes information about which computers and peripheral equipment are suitable for use with the item. Before an order is sent to the order taker, the end user system checks the actual configuration of the user's workstation against the stored compatibility information to make sure they match.

Once the order has been accepted, an order acceptance 44 is returned to the end user system. The order acceptance includes decryption information which is based on information previously sent from the end user system and aids in decryption of the valued items. The order acceptance also may include other information (for example control data for controlling the collection of information on user activity). The system is configured so that a single item of decryption information sent from the order taking system to the end user system is enough to allow decryption of whichever valued items are chosen by the user even though each valued item has been encrypted with a different encryption key and even though the order may specify an arbitrary selection of valued items.

The order taking system 42 includes software running on a workstation. The software provides an environment in which an order taker 46 can process the order and cause the order acceptance to be returned. The order taking system software maintains an order taking database 50. Information generated by the order taking system may be passed to accounting, order entry, and marketing analysis systems 52.

The end user system includes code which provides an integrated windowed graphical user interface through

which users may browse, preview, order, unlock, and install valued items and other information stored on the CD-ROM.

The pre-mastering system enables the publisher to manage successive revisions of a CD-ROMs to permit, among other things, a user to have free access to revised versions of valued items which the user paid for via an earlier revision.

Pre-mastering System

As seen in FIG. 2, the pre-mastering system manages the pre-mastering user interface 102. It provides a windowed graphical user interface which enables the user to guide the processing of the items to be included on the CD-ROM on an item by item basis.

Referring to FIG. 27, an Item Definition window 502 offers the user the ability to define an item for use in pre-mastering an item efficiently. The user may enter a name for the item in box 504, a title for the item in box 506, and a short description in box 508. The software automatically provides a revision number in box 512 to maintain a sequenced record of item changes.

To initiate a new item, the user selects the New button on the item browser, and selects the type of item (e.g., atomic item or group item). The user enters a publisher ID which uniquely identifies the item for that title. The system automatically assigns an internal ID and revision number to the item. Other than type, internal ID, revision, number, and publisher ID, all other fields will initially have the value determined by inheritance as follows. If the field has a value in a title which this title is derived from, that value is used. Otherwise the value is marked as not specified. From the initial set of values, any further modifications to the item's fields may override the inherited values or cause them to be used again (to undo an override).

When an item is initially created, its status is set to incomplete. Once the item is validated, if sufficient information has been entered to allow a pressing the status is changed to complete. Once a pressing is performed using this item, the status is set to locked and no further changes are allowed to this revision of the item. A new revision must be created if edits are required. If a locked item is deleted its status is set to obsolete.

The item type box is a field which allows the user to select from a restricted list of item classifications used by the end user system.

A set of buttons 520 allows the user to call up other windows to provide additional information for an item. The files button 522 invokes a window in which the user may indicate the source files that will make up an item. The keywords button 524 invokes a window 526 (FIG. 28) which contains a box 528 that displays available keywords for use with the item. A box 530 displays the list of keywords that have been selected from box 528 for use with this item. Box 532 provides a place for the user to edit a keyword selected in box 530. In general, the keywords applicable to an item may already exist; if so they may be imported by the pre-mastering system and displayed in box 528 for selection. Alternatively new keywords for the item may be keyed in by hand in box 532 to build a keyword set for the item.

If the user selects Attributes button 534 (FIG. 27), he is presented with an Attributes window 536 (FIG. 29). Window 536 includes a box 540 which displays available attributes for selection by the user. In general, the attributes applicable to an item may already exist; if so they may be imported by the pre-mastering system. Alternatively new attributes for the item may be keyed in by hand to build an attribute set for the item. Box 542 displays the attributes that have been selected. Box 544 provides a place for the user to edit or add new attributes and box 546 enables the value of the attribute to be edited or added.

If the user selects the Facilities button 538 (FIG. 27), he is presented with a Facilities window that includes boxes enabling the user to select facilities that are to be made available for the item being premastered.

If the user selects the Vendors button 550, he is presented with a Vendors window that allows the entry of information about the vendor of the item.

If the user selects the Thumbnails button 552, the user is presented with a Thumbnail window 554 (FIG. 30). A box 556 allows the selection of setup information for displaying the thumbnail associated with the item. The setup information includes a resolution, and a label for the spreadsheet. A box 558 enables the user to specify the source path of the file or files that make up the item. A box 560 enables the user to specify the destination path on the CD-ROM. The user may enter or edit resolution information in box 562, label information in box 564 and label font information in box 566.

In addition to providing a graphical user interface, the pre-mastering system processes end user system software 104 to place it in condition to be recorded on the CD-ROM. The pre-mastering system verifies and moves to the CD-ROM pre-mastering area all executable, library, and data files required by the end user system to be able to display, preview, order, decompress, decrypt, and install any items on the CD-ROM. The pre-mastering software also produces relations which map specific methods for each of the above facilities to each item on the CD-ROM. The pre-mastering software also generates all key tables required by the end user system as well as the order taker software.

The pre-mastering system maintains a pre-mastering database 106 that contains the following information with respect to each revision and pressing of each title:

date of the revision and pressing

whether publisher has full rights or must pay royalty to manufacturer

the title number

the revision number

In the course of processing items for inclusion on the CD-ROM, the pre-mastering system creates a CD-ROM database 108 in two versions; one is held by the publisher (we shall call it the Publisher's Database); the other (a subset of the publisher's version) is included in the pre-mastered data to be stored on the CD-ROM (the CD-ROM Database).

CD-ROM Database

As seen in FIG. 3, both versions of the CD-ROM database are organized on an item by item basis. An item 130 may be an atomic item 132 or a group item 136 which represents a collection of items.

Each item is identified by an internal ID number, a vendor ID number, a publisher ID number, an original manufacturer ID number, a title for the item (for display at the end user's workstation), a description of the item, and a list of properties of the item. Properties associated with an item include

original manufacturer

licensing rights due to manufacturer

whether the item is orderable or not

whether the item is valued or non-valued

whether the item is visible to the end user or not

comments

list fields, described below

Each item has associated with it file information 140 for the files which make up the item. For each file, this includes where the file came from (its source path), where it is to be stored on the CD-ROM (its release path), where it is suggested that the file be installed on the user's system, the file size, a checksum, and a file type.

Each item also has associated with it information concerning one or more thumbnails 142 which are representative of the content of the item. An example of a thumbnail is a graphic of a single letter from an item which contains the entire font. Multiple thumbnails may be needed for use with different display modes (resolutions). The information concerning each thumbnail is its source path and its release path on the CD-ROM, a short title to appear under the thumbnail when displayed, font information for the short title, and identification of facilities needed to expose the thumbnail to the user.

Each item may also have associated with it one or more previews 144. Examples of previews are demonstrations, animations, copyright information, and bit maps. They are designed to enable a user to learn about an item without actually having access to the item. The information which both versions of the CD-ROM database hold with respect to previews for an item includes the identity of the primary preview and alternate previews, the files where the previews are located, the source path, the CD-ROM path, the title that appears on menus which give the user a choice of previews, and type of preview.

The container link information 148 defines relationships between atomic items and group items. An atomic item may be part of multiple packages, and packages may be linked in groups of items.

Each item may have an associated set of keywords 150 used for searching within the item. Because the same keywords may be used for more than one of the items, rather than tie a separate dedicated set of keywords to each item, keyword links 152 are provided to point to the keywords applicable to a given item.

In the same vein, an item may have attributes 154, but as multiple items may share attributes, attribute links 156 are provided to point to the attributes applicable to a given item.

Comments 158 may be entered with respect to an item, for documentation purposes.

For purposes of keeping track of sets of pre-mastered data, a set of items intended to be recorded on CD-ROMs is called a title. An example of a title would be images of major league baseball players. The properties of a title and of a revision include its name, its date, and comments. Titles may have title previews 162.

Titles are hierarchical in the sense that certain titles may be derived from other titles. In the case of title derivation, the derived title will inherit all the properties and items of the title from which it is derived. Any changes or additions to the derived title will only apply within its own scope. Subsequent changes to the title derived from will propagate to all derived titles dynamically.

Items are also hierarchical. An item within a particular title will inherit any unspecified properties from the corresponding items with the same identity (same internal ID) in any titles from which the particular title is

derived. For example, if a title "Pictures of Cars" is derived from a title "Pictures of Machines" and one of the items contained in both titles is a picture of a Porsche then for all properties not specified for the "Pictures of Cars" title, the values specified for the same item in the "Pictures of Machines" title will be used. This mechanism allows specific properties only relevant to an individual title to be specified while not requiring general properties common to a group of titles to be re-entered.

When any change is made in a title, production of additional CD-ROMs represents a new revision. The CD-ROM database includes information which indicates which revision of the title is presented and indicates the upgradeability of each item. For a new revision, a new decryption key is generated for each item.

A given revision of a given title may have multiple pressings 164. A pressing is an instance of a title as it is recorded on multiple CD-ROMs which differs from the CD-ROMs of other pressings of the same title and revision only by the decryption keys associated with the respective valued items. The properties of a pressing include the date of pressing, a description of the pressing, and a seed for the encryption key. The seed is an encryption key used to encrypt the decryption keys generated for the first pressing of the given title and revision. A pressing could be a run of say 1000 CD-ROMs. In each new pressing, the encryption key and corresponding decryption key for the decryption key file is changed, but the underlying decryption keys for the items are not changed. This provides an additional security feature versus a system in which a pressing covers many thousands of CD-ROMs.

Upgrade tables 167 in the CD-ROM database indicate the extent to which an end user is permitted access to items to which he previously had access in an earlier revision. There is an upgrade table with respect to each prior revision or pressing. Each upgrade table includes a list of new item numbers. Each new item number is associated with an old item number and with a key. The key is the actual decryption key for use with the item on the current CD-ROM, encrypted with the original encryption key for that item on the revision or pressing to which the table pertains. Thus the tables, together with information previously obtained by the end user with respect to the earlier pressing or revision, is sufficient to permit decryption of items to which the user previously had access.

The version of the CD-ROM database recorded on the CD-ROM is identical to the publisher's version except that it only includes the one title which relates to the items stored on the CD-ROM and all hierarchical information has been resolved to produce a single independent set of records.

In addition to the general title information and the information concerning each item in the title, the CD-ROM database includes vendor information, keyword information, and attribute information which are referenced by items in the title.

An example of a possible database definition for the CD-ROM database is set forth in Appendix A, incorporated by reference.

Returning to FIG. 2, the pre-mastering system also generates encryption keys and key files for use for a given pressing. The encryption scheme is described in more detail below.

The pre-mastering system also processes 112 the original items to generate processed items. This is done after the CD-ROM database has been set up and the encryption keys and key files have been generated. The title information in the database indicates the items to be included in the pre-mastering data. Items to be included are processed one after another. To process an item, first the files which make up and which are associated with the item are located and fetched.

Each file is verified by the following steps. A check is made to be sure the file exists and is the same version as the one that the user originally specified when populating the database. This check is made on the basis of

size, checksum, and modification date. A check is also made that the item includes (and has accessible) all required fields (for example, bitmaps may always require an x-size and a y-size).

After verification, the files making up the item are compressed (if called for) and encrypted (if called for). Compression and encryption may use any appropriate compression and encryption schemes. The files making up the item are compressed and/or encrypted if the database so indicates (which will be typical for large items, to be compressed, or valued items, to be encrypted).

Referring to FIG. 4, the sequence of steps involved in encryption and decryption of an item in the pre-mastering, order taking, and end user systems begins with the generation of a unique item encryption key for the item 170. Encryption keys may be generated by any of a variety of known schemes. The unique item encryption key 170 is applied to the valued item 172 to generate an encrypted valued item 174. It is that encrypted item that is recorded on the CD-ROM 176. The CD-ROM may carry an encrypted version of an item decryption key file 178. The encrypted item decryption key file is an encrypted file which lists the encrypted items on the disk and associates with each item an item decryption key 180 which corresponds to the item encryption key used to encrypt the file. The actual item decryption key file 182 is encrypted using a unique key file encryption key 184. Thus, the CD-ROM contains all of the decryption keys needed to decrypt all of the items contained on it, but they cannot be used without decrypting the file which holds them. That decryption requires an actual key file decryption key 186 which corresponds to the key file encryption key for decryption key file. The actual key file decryption key is not included on the CD-ROM but rather is obtained by the end user as part of the process of ordering and paying for use of selected valued items, as follows.

The actual key file decryption keys are provided by the publisher to the order taker and maintained in the order taking system. Each order from an end user to the order taker includes a unique request number 188 and a list of IDs of selected valued items 190. The request number identifies the CD-ROM in a way that enables the order taking system to fetch the actual key file decryption key. The order taking system uses the request number to generate an encrypted key file decryption key 192 which is delivered to the end user system. The end user system has access to the request number in that the request number was generated at the end user workstation. The end user system uses the request number to decrypt the encrypted key file decryption key 192, thus recovering the actual key file decryption key 186. This is used to generate (unlock) the actual item decryption key file 182 from the encrypted version 178. Then the IDs for the selected valued items 190 are used to control the retrieval of the selected decryption keys. They are stored on the hard disk of the end user's workstation and used to decrypt the valued items for subsequent use. Alternatively they may be stored on a network file server (for example, when an enterprise license or bulk license and software for counting active copies is used) or on other media such as Flash RAM, EEPROM (EEROM) or even ROM (for example when the key is pre-encoded in a PCMCIA card).

Part of the key file decryption key is a set of check sum/hash totals on the item decryption keys for the items in the order. This provides an additional layer of protection, making it more difficult for the end user to use the key file decryption key to free up item decryption keys for items not ordered.

Referring again to FIG. 2, the finished CD-ROM contains processed items 200 (which include valued items and information other than valued items, e.g., marketing materials), configured end user executables 202, the end user CD-ROM database and the key files 206.

The system may be used to distribute a title which spans multiple volumes (e.g., multiple physical CD-ROMs). The CD-ROM database is then duplicated on each of the volumes and the thumbnails and selected non-valued items may be duplicated on some or all of the CD-ROMs. The database includes volume number as an identifier so that the end user system will not be confused as to which physical volume is currently in place. As a result, the publisher may virtually ignore size constraints and the user may compose an order

which spans several volumes.

End User System

When the user starts the end user system, the main menu (FIG. 5) appears. Among the menu choices are Preview and Search 302 (which leads to the main browsing and searching facilities); Order, Unlock, and Install 304, which leads to the processes for generating orders, and unlocking and installing items; Samples and Other Info 306, which provides the same functions as Preview and Search, for free product and general information; and System Setup 308, where users can review and modify information about themselves, their system, and the publisher.

When the user invokes the System Setup item, the submenu of FIG. 6 appears. The Customer Information selection 310 leads to a window of information about the end user which is needed when an order is to be placed. The Vendor Information selection 312 leads to information about the name, address, phone, FAX, customer support technical support and related numbers from the publisher. The Computer Information selection 314 provides system configuration information needed to run the end user system, such as the location of the CD-ROM reader.

The Samples and Other Info selection 306 on the main menu gives the user access (through a sub-menu (FIG. 7) to self-running demos 316, try-out (disabled) products 318 or free products 320.

The Preview and Search selection 302 of the main menu gives the user access (through a sub-menu, FIG. 8) to alternative choices for previewing 322 or searching 324 through items on the disk for the purpose of locating those which the end user wishes to purchase. The search functions are a subset of the preview functions described below.

The Order, Unlock, and Install selection 304 of the main menu leads to a sub-menu (FIG. 9) which enables the user to Place Order 326, Unlock Order 328, or Install Unlocked Order 330.

When the Preview selection 322 is invoked, a multiple window screen 332 (FIG. 10) appears. The screen provides constant simultaneous viewing of three important aspects of the content of the CD-ROM and makes navigation, previewing, and ordering of items easy and simple. The three aspects are displayed in three windows. The Viewer window 334 continually provides graphical illustrations 336 of one or more items stored in the CD-ROM. The user may use the scroll bar 338 to navigate through the items which to finds ones of interest.

The Position window 340 illustrates the hierarchy of the items on the CD-ROM and the position of each item, or category, or package within the hierarchy. The hierarchy does not depend on the physical location of the items on the CD-ROM but rather is governed by a marketing hierarchy imposed by the publisher in the course of pre-mastering and embodied in the CD-ROM database. The scroll bar 342 permits easy navigation through the hierarchy and the Position and Viewer windows are synchronized so that scrolling in one causes corresponding scrolling in the other.

An Order Pad window 344 gives the user access to the ordering facilities and displays information about orders.

The lowest level in the hierarchy of items illustrated in the Viewer and Position windows are the items. Items (e.g., individual clipart images) may be bundled into packages for purposes of sale. Each package typically contains items of a broader category (e.g., sound effects), and there are typically different packages within a given category. Categories typically are not subject to being purchased in a single transaction. Only the packages within a category may be purchased in a single transaction. There may be packages of packages and

so on. Furthermore packages may contain items of different types.

The user may easily switch what is shown in the Viewer window between all of the items stored on the CD-ROM (using the disk contents button 345) and the items which were generated in the most recent search (using the search results button 347).

The type of each thumbnail is indicated in the upper right corner, for example by a "C" 350 for Category, or by a "P" for package, or blank for an individual item. At the lower right corner of each thumbnail is an indication of whether the item or package has been ordered (a "?"), ordered and unlocked (a checkmark), ordered, unlocked, and installed (filled circle) or not yet ordered (blank). The status indicator for a package or group indicates the highest level of status achieved by all items in the package or group.

Each thumbnail is accompanied by an textual title 354 which includes one line of content and a second line repeating in text what is indicated in the hierarchical symbol 350. Initially the Viewer displays thumbnails 346 of the highest level bundles in the hierarchy, in this case categories.

When the user double clicks on a category thumbnail, the category is opened to reveal thumbnails 360 (FIG. 11) corresponding to all of the entries at the next lower level of the item hierarchy. As shown, this next lower level may itself include categories.

Double clicking on one of the thumbnails at this lower level (e.g., the "Type 1 Category") opens that category and displays package thumbnails 362 (FIG. 12). In this case, each thumbnail is a sample of one of the font letters. Clicking on one of the package thumbnails leads to display (in this case) of the thumbnails 364 (FIG. 13) for individual items (here individual fonts).

The hierarchy may be navigated in the reverse direction simply by clicking on the Previous button 366.

By clicking an individual item thumbnail, the user may cause display of additional information about that item (for example more comprehensive displays of the font (FIG. 14)).

Clicking on the Info button 368 (FIG. 13) provides other detailed marketing information (FIG. 15) about items represented by selected thumbnails.

The information for every item includes the item identifying number 370, the version number 372, the size 374, the title 376, a description 378, a file format 380, the status 382, and the installed path 384. Of these items all but the last two are derived from the CD-ROM database. The last two are derived from the end user database.

The middle of the window provides information 386 (derived from the CD-ROM database) specific to the particular type of item. The keywords subwindow 388 shows keywords assigned to the item (either by the publisher via the CD-ROM database, or by the end user).

The end user may click the order item button 390 (FIG. 13) at any time to add a selected item to an order, and may click the install item button 392 at any time to install a selected item that has been ordered and unlocked.

Thus the windowed graphical user interface enables the user to engage in browsing, previewing, ordering, searching, and installation activities easily and quickly while viewing and interacting with a single screen of three windows and control buttons.

SEARCHING/BROWSING

The end user may search the content of the CD-ROM using keyword information and the values of attributes. Keyword information may be stored on the CD-ROM as part of the CD-ROM database, as a result of pre-mastering, or may be added by the end user and stored in the end user database. Attribute information is supplied by the publisher in the course of pre-mastering and stored in the CD-ROM database. Attributes are publisher specified information categories which apply to all items of a given type. The attribute values for an item appear in the window that is displayed when the info button is clicked (reference numeral 386 in FIG. 15).

The end user invokes the search function by clicking on the Search button 390 (FIG. 13). When the search is completed the results are represented by thumbnails displayed in the Viewer window. The Search is replaced with a Search Again button. When the search again button is pressed searching is restricted to the field of results of the prior search.

When the Search button is clicked, a window 400 (FIG. 16) is displayed enabling the user to specify the search criteria and control the progress of the search. At the top of the window are four pull down menus. The first pull down menu 402 permits selection from all of the groups of items recorded on the CD-ROM. The second pull down menu 404 permits selection from a list of all of the attributes defined for the selected group. The third pull down menu 406 permits selection of a logical search operator (e.g., greater than). The fourth pull down menu 408 permits selection of one of the possible values which exist for the selections made in the other three pull down menus.

If the user wishes to apply a combination search, he then clicks on the Apply button 409. Then he selects a combinational operator in the Combination Rule pull down menu 410. And then he enters the next search rule in the menus 402, 404, 406, 408, and finally clicks on the Start button 412. The search criteria are displayed in box 414 for review. The Where is it function (described below) may also be used to locate a desired item.

Being able to locate a desired item is especially useful at the end of the searching process. The search may have led to items which are individually not orderable (so that the user needs to find the package which contains the item and which is orderable) or to items which are orderable in multiple packages (so that the user needs to determine which package is most suitable to order).

Ordering

The end user uses the Order Pad window 344 (FIG. 10) to compose a new order, place an order, review an order that has been composed or an order that has been placed, to unlock the items of an order that has been placed and accepted, and to install the items of an order that has been unlocked.

An order is composed by assembling in the Order Pad window a list of orderable items, packages, and categories. The list is assembled in any one or more of three ways. One way is to drag and drop the entity from the Viewer window. A second way is to select the item in the Viewer window and then click on the Order Item button (390, FIG. 3). A third way is to select the item in the Viewer window and then select Add to Order from the Contents pull down menu 391 (FIG. 10). The Contents pull down menu is shown in FIG. 24. As seen in FIG. 25, when the Where is it entry 421 is selected in the Contents pull down menu, a list is displayed showing the packages and categories in which the selected item is found. This aids the user in deciding which package may be the best to buy to get the desired item.

Returning to FIG. 10, the entities which make up the order are listed 420 in the order pad window in the same order as in the Position Window and may be expanded or contracted in the same way.

If an attempt is made to order a collection of items that was not intended by the publisher to be sold as an entity, an error message like the one shown in FIG. 18 is displayed. A similar error message (FIG. 19) is

displayed when the user attempts to order an item which is too low in the hierarchy to be separately ordered.

If the user double clicks on an entry in the list displayed in the Order Pad window, thumbnails of the items which make up the entry are displayed in the Viewer window.

The user deletes an entry from the order list by selecting it and then clicking on the Remove Item button 422 (FIG. 17).

To move on to the process for placing the order, the user clicks on the Place Order button 424 (FIG. 17). The Clear Order button deletes the entire order list from the window.

Clicking on the Place Order button causes a order information window 426 (FIG. 20) to be displayed. Sections at the top of the window show the customer number (received from the order taker and entered after the first order is placed), and the customer name, company name, voice and FAX phone numbers, and disk serial number (all entered by the user during setup and subject to change by clicking on the Set Up button 428). The disk title is automatically provided from the CD-ROM database. The request number is generated by the end user system as described earlier and is unique to the order. This may be achieved either using the serial number or network address of the computer on which the end user system is running or by using randomized information (e.g., information derived from the state of the computer system) that makes it highly unlikely that two requests will be the same. In some implementations the request number can incorporate a disk serial number. Information about payment 430 is user editable by clicking on the Set Up button. Ordering information 432 is also editable through the Set Up procedures.

The Cancel button 436 removes the order from the system and returns the user to the Viewer. A placed order may be saved by clicking on the Save button 438. Clicking on the Unlock Order button 440 advances the user to the unlock and install routines after the order has been placed and the key has been returned. The Help button 442 does what its name implies.

The user may view, unlock, and install orders previously composed using the scroll bar 444 (FIG. 17). When the user clicks on an order shown in the scroll bar list, that order is displayed in the Order Pad window. That order may then be viewed or unlocked.

The ordering may be done by several methods. In a telephone conversation the user may read the information to a clerk and receive back the decryption key. In a FAX order the information and key are passed by in FAX format. In a printed order the order and key are printed on paper and the papers are FAXed. Modem to modem communication is also possible. The purchased item list is not editable (because it is permanently associated with the request number) and is copied from the list in the Order Pad window.

Unlocking

When an order has been placed and the decryption keys have been returned, the user enters the keys in the Unlock Order window 450 (FIG. 21) which is displayed by clicking on the unlock button 440 (FIG. 20). Alternatively the user may select an entry in the Order pull-down menu. The user enters the keys in the key fields 452. The end user system checks the keys and tells the user if a mistake has been made in entering them. Once valid keys have been entered, the unlocking step has been completed and a corresponding message is displayed to the user.

The user may then click on the Save button 454 if he wishes to wait until later to perform the installation of the unlocked items, or on the Install button 456 if he wishes to proceed immediately to installation.

Installing

When the user indicates his wish to install the items of an unlocked order, the installation window 460 (FIG. 22) is presented. The installation window shows the request number 462 and date 464 of the order and lists 466, allows the user to control whether packages or items are displayed, and whether installed or uninstalled items or both are displayed 468. The user may select items or packages on the display and the system shows the required disk space to install the displayed items 469.

When the display shows the items and packages which the user wishes to install, he clicks on the Install button 470. This leads to display of a control window 472 (FIG. 23). In window 472 the user may choose the location for storing each item in the order. The Next Item button 476 controls the contents of the Item box 474. A Recommended Target box 478 shows the recommended location as indicated in the CD-ROM database. The user indicates the actual directory desired in box 480 in the usual way for Windows applications. The Install All Here box allows the user to handle installation of all items to the same directory at once,

Installation of each item involves decryption using the decryption key for that item found in the decryption key file on the CD-ROM database, and decompression.

Alternatively it is possible to arrange for the unlocked items on the CD-ROM to be used directly with on-the-fly decryption and decompression if appropriate facilities are provided.

Other interfaces, not so heavily dependent on the mouse actions by the user, may also be provided.

End User Database

Appendix B (incorporated by reference) includes an example of a database structure for use in the end user database. The end user database is created and maintained on the user's computer with the aid of routines included in the end user system stored on the CD-ROM.

As seen Appendix B, the end user database includes information such as the customer's number, name, address, telephone numbers, credit card information, disk information, and order and key information.

Order Taking System

In order to generate keys for delivery to the end user in response to an order, the order taker is presented with a screen 490. A box 491 contains the unique request number associated with the order. This number may be obtained electronically over a telephone line or entered manually by the order taker when the request number is spoken to the order taker over the phone by the end user. The disk title and disk description boxes 492, 493, display information that is derived automatically by the order taking system from the request number.

Box 494 contains the list of items being ordered. In one implementation this information would be derived automatically over the telephone line as part of the order. In another, the user would read the list of items to the order taker who would then enter them by keyboard or by selection from a scrolled item list 495.

Once the order is completed, the order taker selects "Generate Keys" and the "keys" are computed and displayed in boxes 496 and 497. The two entries in boxes 496 and 497 together comprise the decryption key for the decryption key file discussed earlier. They are displayed as two "keys" for convenience in delivering them by voice. The keys could either be delivered electronically or by voice to the user.

The order taking database is derived from order taking information sent from the pre-mastering system (see FIG. 1) The order taking database includes tables for each revision. A table for a given revision includes a list

of item numbers, the title of each item, the decryption key for each item, and optional information such as accounting information. The database also includes a section for each pressing of each revision. That section contains, for each pressing, the key that was used to encrypt the decryption key of a prior pressing.

Other embodiments are within the scope of the claims.

For example, the nomenclature of the discussion above has centered on a commercial implementation in which a publisher wishes to distribute items in exchange for payments associated with user orders. But the system is also useful for non-commercial applications, such as for internal use within a corporation to distribute information (e.g., marketing information, manuals, product specifications) to employees. Many organizations are beginning to use CD-ROMs for internal distribution of proprietary information such as architectural drawings, financial transaction histories, and CAD/CAM/CAE designs. In those contexts the "order" is not associated with a payment, and encryption may or may not be needed.

The arrangements for decryption may be varied. For example, the decryption keys for selected items may not be included in the item decryption key file 182. This will be indicated in the CD-ROM database. When an end user orders such an item, the order acceptance will include an individual decryption key for each ordered item.

Alternatively, a single encryption key may be used to encrypt all items in a title, and a single corresponding decryption key may be provided to decrypt all items.

Furthermore, a hybrid scheme could be used in which some items on a title (e.g., less valuable ones) are protected by a single encryption key while others are protected on a one key per item basis.

The medium in which the digital information is conveyed need not be CD-ROM but could be floppy disks, tape, magnetic-optical storage, ROM chips, flash-RAM chips, normal hard disks, and other high-capacity media that may be developed in the future.

Furthermore the digital information may be distributed by a non-storage medium, including computer network media and side-band broadcasting. In the latter case, for example, side-band information sent by TV network, cable networks, and syndicators to their affiliates could be used more extensively if the transmitter knew that only authorized affiliates would be able to decrypt the broadcast signal and extract the original information. Similarly, broadcast frequency or cable channels could be used to distribute secure information. The invention is likely to be applicable to other non-storage media not yet developed.

Appendix C contains source code for an implementation of the invention which may differ in some respects from the implementation described above. The code in Appendix C was built using the following tools: Borland C++ Version 3.1, Raima dbVista version 3.21, Blaise CPalette Library version 1.0, and Symantec Object Graphics Library version 1.01. In Appendix C, DDKEY.EXE is the executable for the order taker system; DD.EXE is the executable for the end user system; the pre-mastering system is embedded in DD.EXE; CRYPTIT.EXE and KEYIT.EXE are part of the pre-mastering process. A portion of the disclosure of this patent application contains material which is subject to copyright protection. The owner has no objection to facsimile reproduction by anyone of the patent application, as it appears in the Patent and Trademark Office patent file or records, but otherwise reserves all copyright rights whatsoever.

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(1 of 1)

United States Patent
Hastings , et al.

6,370,629
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Controlling access to stored information based on geographical location and date and time

Abstract

Access to stored information by a user is controlled by comparing an actual geographic position and/or an actual date/time with a geographic region and/or a date/time interval within which access to the stored information is authorized. The actual geographic position where the stored information is located, and the actual date/time can be determined, for example, based on signals received at a receiver supplying reliable position and time information, such as a GPS receiver. Access to the stored information is authorized if the actual geographic position and/or date/time falls within the authorized geographic region and/or date/time interval. The position and date/time information supplied by the receiver may be cryptographically signed and encrypted.

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Claims

What is claimed is:

1. A method for controlling access to stored information comprising:

determining an actual geographic position where said stored information is located based on signals received at a receiver supplying reliable position information;

cryptographically signing said actual geographic position with a receiver encryption key;

verifying the signature of said actual geographic position;

determining that said actual geographic position is within a geographic region within which access to said stored information is authorized; and

permitting access to said stored information.

2. The method of claim 1, wherein said receiver comprises a GPS receiver.

3. The method of claim 1, wherein said information is stored on a computer-readable medium.

4. The method of claim 3, wherein said computer-readable medium is portable.

5. The method of claim 3, wherein said computer-readable medium comprises a high-capacity disk.

6. The method of claim 1, wherein said stored information comprises files and each of said files has an associated geographic region within which access is permitted, and further permitting access to said file if said actual geographic position is located within said authorized geographic region for said file.

7. The method of claim 6, further comprising denying access to said stored information if said actual geographic position does not match said authorized geographic region.

8. The method of claim 6, wherein said association of the files with the authorized geographic regions is

stored as a policy file together with said stored information.

9. The method of claim 1, further comprising:

encrypting said stored information using an encryption key; and

providing a decryption key which permits decryption of said stored information if said actual geographic position is located within said authorized geographic region.

10. The method of claim 1, wherein said stored information is divided into subsets of information and wherein at least one the subsets has a different authorized region from the other subsets, so that access is authorized to the subset whose authorized geographic region is located within the actual geographic position, but not to the subsets whose authorized geographic region is not located within the actual geographic position.

11. Apparatus for controlling access to stored information comprising:

a receiver supplying reliable position information for determining an actual geographic position where said stored information is located, wherein the receiver comprises a receiver encryption mechanism providing a receiver encryption key for cryptographically signing data comprising the actual geographic position; and

a computer for comparing said actual geographic position with a geographic region within which access to said stored information is authorized,

wherein said computer permits access to said stored information if said actual geographic position is located within said authorized geographic region.

12. The apparatus of claim 11, wherein said receiver is a GPS receiver.

13. The apparatus of claim 11, further comprising a reader for reading said stored information wherein said reader comprises a receiver decryption key for verifying the data comprising said cryptographically signed actual position.

14. The apparatus of claim 13, wherein said reader generates an initialization vector which is transmitted to the receiver and included in the signed data.

15. The apparatus of claim 14, wherein said signed initialization vector is verified by the reader before said computer permits access to said stored information.

16. A method for controlling access to a subset of files belonging to a larger set of files of stored information comprising:

associating a unique file encryption key with each file from the larger set of files and encrypting the files using the associated encryption keys;

associating each of the files from the larger set of files with at least one authorized geographic region within which access to said stored information is authorized;

determining an actual geographic position where said stored information is located based on signals received at a receiver supplying reliable position information;

cryptographically signing at least the actual geographic position at the receiver;

verifying the signature of the actual geographic position;

comparing said actual geographic position with said authorized geographic region; and

providing a file decryption key which authorizes access to and permits decryption of said files belonging to said subset of files, provided that the actual geographic position is located within the authorized geographic region for the files belonging to said subset of files.

17. The method of claim 16, wherein said association of the files with the authorized geographic regions is stored as a policy comprising policy files wherein each policy file is accessible with a user password and authorizes, if the user password is valid, access to the files listed in said policy file, if the actual geographic position is located within the authorized geographic region associated with the files.

18. The method of claim 17, wherein said policy is stored with the stored information.

19. A method for controlling access to stored information comprising:

determining an actual date or time at the location of said stored information based on signals received at a receiver supplying reliable time information;

cryptographically signing at least the actual date or time at the receiver;

verifying the signature of the actual date or time;

comparing said actual date or time with a predetermined date or time interval at which access to said stored information is authorized; and

permitting access to said stored information if said actual date or time occurs within said authorized date or time interval.

20. The method of claim 19, further comprising denying access to said stored information if said actual date or time does not occur within said authorized date or time interval.

21. The method of claim 19, wherein said information comprises files and each of said files has an associated authorized date or time interval within which access is permitted, and further permitting access to said file if said actual date or time occurs within said associated authorized date or time interval.

22. The method of claim 19, wherein said stored information is divided into subsets of information and wherein at least one of the subsets has a different authorized date or time interval from the other subsets, so that access is authorized to the subset whose authorized date or time interval matches the actual date or time, but not to the subsets whose authorized date or time interval does not match the actual date or time.

23. A method for controlling access to stored information comprising:

forming a policy associating said information with authorized geographic regions and authorized time intervals;

cryptographically signing said policy and said information;
storing said signed policy together with said signed information;
providing a password for unlocking said policy;
determining an actual geographic position where said stored information is located based on signals received at a receiver supplying reliable position information;
determining an actual time;
cryptographically signing at least the actual geographic position and the actual time at the receiver;
verifying the signature of the actual geographic position and the actual time;
comparing said actual geographic position and said actual time with said authorized geographic regions and authorized time interval of said policy; and
permitting access to said stored information if said actual geographic position and actual time falls within said authorized geographic regions and authorized time interval of said policy.

24. The method of claim 23, wherein position and time are determined through a Global Orbiting Navigational Satellite System.

25. The method of claim 23, wherein position is determined through an inertial navigation system.

26. The method of claim 23, wherein position is determined through a satellite based location determination system.

27. A method for controlling access to stored information, the method comprising:

- (a) determining a position;
- (b) cryptographically signing data comprising at least a representation of the position;
- (c) verifying the signature of the data comprising at least a representation of the position;
- (d) determining that access to the stored information is authorized at the position; and
- (e) permitting access to the information based at least upon (c) and (d).

28. The method of claim 27, further comprising

- (f) providing the cryptographically signed data to an information accessing device, wherein (c) and (e) are performed by the information accessing device.

29. The method of claim 28, further comprising:

- (g) identifying a token;

(h) incorporating the token in the data that is cryptographically signed; and

(i) verifying that the cryptographically signed data comprises the token.

30. The method of claim 29, wherein (g) and (i) are performed by the information accessing device.

31. The method of claim 29, wherein (a), (b), and (h) are performed by a position determining device.

32. The method of claim 29, further comprising

(j) providing the token to the position determining device.

Description

BACKGROUND

This invention relates to controlling access to stored information.

Data distribution media, such as a CD-ROM, can store a large number of files. The producer of the CD-ROM may wish to control access by users to particular files, either because they are confidential or because access is subject to payment by the user.

Access may be controlled by requiring a user to enter a password obtained from the CD-ROM producer. Different passwords may unlock different files or different subsets of files. The files may be cryptographically signed and for added protection, may be encrypted. In the scheme discussed in U.S. Pat. No. 5,646,992, incorporated herein by reference, each file is encrypted by the producer with a unique key known only to the producer. The user receives the encrypted items and, after his request for access is processed by the producer, also receives decryption keys, i.e., passwords, which are used to decrypt the respective encrypted files. The passwords unlock only those files for which access has been requested.

SUMMARY

In general, in one aspect of the invention, the invention features controlling access to stored information by determining an actual geographic position where the stored information is located based on signals received at a receiver supplying reliable position information. The actual geographic position is then compared with a geographic region within which access to the stored information is authorized. The user is permitted access to the stored information if the actual geographic position is located within the authorized geographic region.

Embodiments of the invention include the following features. The receiver that supplies the position information can receive the position information from a satellite-based location determination system or an inertial navigation system. The information can be stored on a computer-readable medium, such as a high-capacity disk. The stored information includes files and each of these files has an associated geographic region within which access is permitted. The user has access to a specific file or files if the actual geographic position is located within the authorized geographic region for this file. The stored information can be encrypted, and the user has access to the decryption key only if the actual geographic position is located within the authorized geographic region. The stored information can also be divided into subsets of information and wherein at least one the subsets has a different authorized region from

the other subsets. The association of the files with the authorized geographic regions can be stored as a policy file together with the stored information.

In general, in another aspect, the invention features determining an actual date or time at the location of the stored information based on signals received at a receiver supplying reliable time information. The actual date or time is compared with a predetermined date or time interval at which access to the stored information is authorized. The user can access the stored information if the actual date or time occurs within the authorized date or time interval.

In general, in another aspect, the invention includes a receiver supplying reliable position information for determining an actual geographic position where the stored information is located. A computer receives the position information with a geographic region within which access to the stored information is authorized and permits access to the stored information if the actual geographic position is located within the authorized geographic region.

Embodiments of the invention include the following features. The receiver includes a receiver encryption mechanism for cryptographically signing the actual geographic position with a receiver encryption key and verifying the receiver signature with a receiver decryption key before the actual geographic position is compared with the authorized geographic region.

In general, in yet another aspect, the invention includes a reader with a corresponding receiver decryption key for verifying the cryptographically signed actual position.

Embodiments of the invention include the following features. The reader generates an initialization vector providing a position offset which is transmitted to the receiver and added to the actual geographic position. The reader cryptographically signs the position offset with a reader encryption key. The receiver verifies the position offset signature with a corresponding reader decryption key before the position offset is added to the actual geographic position.

In general, in another aspect, the invention features forming a policy associating the information with authorized geographic regions and authorized time intervals and cryptographically signing the policy and the information. The signed policy is stored together with the signed information. The user obtains from the producer a password for unlocking the policy and obtains access to the stored information if the actual geographic position and actual time falls within the authorized geographic regions and authorized time interval of the policy.

Among the advantages of the invention are one or more of the following.

A producer of stored information can restrict use of that information to designated geographic regions or can exclude designated regions where use is not permitted. For example, a service manual for an automobile stored on a CD-ROM may contain different sections of information which are applicable to corresponding specific countries and/or regions. A user may be permitted to see only the portion of the information which is applicable to his current geographic location. Likewise, access to a sensitive corporate report may be limited to specific plant location. Access to time-sensitive information may be denied before or after a certain date or limited to a permitted period. By associating information about authorized geographic regions and time intervals with policy files stored on the CD-ROM and accessed with a user password, the CD-ROM producer can issue a new password to permit the user to access a particular set of policy files, and therefore the information authorized, for a corresponding region and date/time.

Other advantages and features will become apparent from the following description and from the claims.

DESCRIPTION

FIG. 1 is a perspective view of a computer system;

FIG. 2 is a block diagram of a computer-based system for controlling access to stored information;

FIGS. 3 through 5 are flow diagrams;

FIG. 6 is a block diagram of cryptographic elements.

As seen in FIGS. 1 to 3, access to information which is stored on a portable computer-readable CD-ROM which serves as a data distribution media 35, may be controlled based on an actual geographic position of a computer system 10 on which the information is to be accessed and the time when it is to be accessed.

In computer system 10, a computer 20 is connected to a keyboard 50, a mouse 60, a monitor 40, and a CD-ROM drive 30. A GPS receiver 70 serves as a source of reliable position and time information. The receiver 70 is located at the actual geographic position of the computer system 10 and receives signals 75 from orbiting GPS satellites 90 (only one shown). The receiver 70 converts the received signals 75 to geographic position data 71 to an accuracy of several meters in longitude, latitude and height and to date/time data 71 to an accuracy of microseconds. The data 71 are transmitted to the computer 20 via a device driver 72.

A receiver crypto-board 80 may contain a public-key certificate 81 signed by the producer and a corresponding private key 82, as shown in FIG. 6. The geographic position and date/time data 71 may then be signed with the private key 82 to authenticate the data.

The CD-ROM drive 30 may also include encryption and signature capabilities (decoder 32) which may be implemented either in hardware or in software. The decoder 32 includes a crypto-board public-key certificate 83 which is identical to certificate 81, a producer certificate 84 for verification of the producer's identity, and a distribution media policy decryption key 86 signed by the producer, as shown in FIG. 6. The crypto-board certificate 83 verifies the signature of the crypto-board 80 signed with the private key 82. The policy decryption key 86 decrypts the access policy 155 stored on the CD-ROM 35.

The computer system 10 can have several levels of security, such as Level 1 and Level 2, described in the following examples.

In a system with Level 1 security, the receiver 70 communicates with the computer 20 via a conventional device driver 72 and the CD-ROM drive 30 is a conventional CD-ROM. Neither the receiver 70 nor the CD-ROM drive 30 have additional encryption/decryption capabilities. For increased security, the computer 20 in a Level 1 system can be a "trusted" computer which can authenticate and/or encrypt data. In a more secure, Level 2 system, the receiver 70 may include a crypto-board 80 and the CD-ROM drive 30 may include a decoder 32. The Level 2 system is designed to provide data authentication and encrypted data transmission between the receiver 70 and the decoder 32. The computer 20 can then be any commercial computer without data authentication and encryption.

Data entered via the keyboard 50 and mouse 60 may include typical command and data input 130 entered via a user interface 95 (provided by an application program 34) and one or more passwords 130 that permit a user to gain access to information stored on the data distribution media 35.

The CD-ROM 35 stores different types of information, such as files with information 144, a list 150 of authorized geographic regions, a list 154 of authorized date/time intervals, one or more file decryption key files 146, one or more policy files 152 and a signature 147 for the entire CD-ROM 35. As seen in FIG. 3, the files 144, 146, 150, 152, 154 and 155 may be signed and encrypted.

The files 144 may be grouped in subsets 141, 142 and 143. Files may belong to more than one subset. (In the following discussion, the term file refers to both files and subsets of files.) Each file 141, 142 and 143 may be encrypted with a unique file encryption key 51 (E.sub.1, E.sub.2, E.sub.3). The corresponding file decryption keys 52 (K.sub.1, K.sub.2, K.sub.3) are stored on the CD-ROM 35 in the file decryption key file 146. Additional information about the decryption keys and the decryption key file are found in U.S. Pat. No. 5,646,992.

Each file 141, 142 and 143 on the CD-ROM 35 is associated with zero, one or more of the authorized geographic regions stored in the list 150 of authorized geographic regions. For example, a region may be bordered by latitudes and longitudes corresponding to the extent of the Empire State Building in New York City and an altitude of between 50 and 60 meters, so that the file associated with that region can only be opened if the receiver 70 is located in a certain office area inside the Empire State Building.

Likewise, each file 141, 142 and 143 is associated with zero, one or more of the authorized date/time intervals stored in the list 154 of authorized date/time intervals.

Each GPS satellite 90 maintains an extremely accurate clock. The receiver 70 receives the GPS clock signals as part of signals 75, or a local atomic clock can provide similar clock signals. The clock signals enable control of access to the information based on the actual time when access to the information is attempted. For example, the producer can specify that access is to be granted only (1) before a predetermined date/time; (2) after a predetermined date/time; or (3) only during a predetermined date/time period.

The producer can associate the files 141, 142 and 143 with specific items in the lists 150 and 154 via a password 130 which the user enters via keyboard 50. The password 130 can be a user password valid for more than one access, or can be a one-time password. Alternately, the producer can associate specific geographic region/date/time information of lists 150 and 154 with the files 141, 142 and 143 via the policy files 152. A valid user password 130 may unlock one or more policy files 152. If the user's actual geographic position and the current date and time are within the authorized geographic region and the authorized date/time corresponding to the user password 150, then the user can access the selected files via the user interface 95. The selected information is then displayed on output device 40.

Table 1 shows, as an example, how five encrypted files, A to F, stored on the CD-ROM 35 and associated with corresponding authorized geographic regions and dates/times, can be accessed. Each file is associated with one of four different file decryption keys K1 to K4. L1 and L2 are two different authorized geographic regions and T1, T2 and T3 are three different authorized date/time intervals. The user who is in possession of the file decryption key K1, e.g., a password, can decrypt Manual A within the geographic regions L1 and L3 at time T1. The same user can also decrypt Manual D at the same time T1 in regions L2 and L3, but not within region L1. Likewise, the user who has key K2 can decrypt Image B and Image E within the region L2, but not at the same time. Drawing C can be decrypted with key K3 at any location, but only at time T3, while the Business Report F requires key K4 and can be decrypted at any time, but only within the region L1.

TABLE 1 Authorized Authorized Encrypted File Geographic Date/Time File Decryption Key Regions Intervals Manual A K1 L1, L3 T1 Image B K2 L2 T1, T3 Drawings C K3 -- T3 Manual D K1 L2, L3 T1

As shown in FIG. 3, for purposes of cryptographic signature with optional encryption, the producer selects source files 144' to be written on the CD-ROM 35 and specifies a list of authorized geographic regions 150' and a list of authorized date and time intervals 154'. The producer associates (as shown in Table 1) each file or subset of files with zero, one or more geographic regions 150' and zero, one or more date/time intervals 154' and stores this association in a policy file 152'. Each of the files 144', 150', 152', 154' can be signed and encrypted in steps 53, 340, 350 and 360 with corresponding encryption keys 51, 345, 355 and 365, respectively. The corresponding encrypted files 150, 152 and 154 are then stored together on the CD-ROM 35 as a signed, encrypted region/time/file access policy 155. Also stored on the CD-ROM 35 are, as mentioned above, the signed/encrypted files 144, the signed/encrypted symmetric file decryption key file 146 and the signature 147 used by the producer to sign the entire CD-ROM 35.

As seen in FIGS. 4 and 5, to gain access to the signed/encrypted files 144, the user obtains a password 130 (FIG. 2) from the producer (step 400), and enters the password 130 via the keyboard 50 (step 410). The password 130 is assumed to be a one-time password, although user passwords valid for more than one session can also be used.

As seen in FIG. 4, the early portions of the process flow for Level 1 and Level 2 are almost identical.

Step 420 checks the password 130 and the process then executes either 440 (for Level 1, with no additional security) or to 450 (for Level 2, with receiver/CD-ROM drive security), depending on the system configuration. Details of steps 440 and 450 are shown in FIG. 5 and will now be discussed.

As seen in FIG. 5, in process 440 the user password 130 is sent to the device driver 72 (step 510). In response to the one-time password 130, the device driver 72 generates from the user's password 130 its own one-time password (step 520) and verifies (step 530) that the user did indeed enter a correct one-time password 130, thus authenticating the user for the interactive session (step 532). Otherwise, access is denied (step 535).

Once the password 130 has authenticated the user, the device driver 72 interrogates the receiver 70 for the current position and date/time (step 540). The device driver 72 then compares the time and position data returned by the receiver 70 with the policy 155 which applies to the files 144 or a subset 141, 142 and 143 of files (step 460). If the user is authorized to access the files 144, then the data is unlocked, decrypted (step 470, FIG. 3) with decryption keys 52 (step 480) and supplied to the user's application program 34 (step 490) and displayed.

In a Level 2 system, the receiver 70 includes the cryptographic receiver board 80, hereafter referred to as "crypto-board". As mentioned before, crypto-board 80 can sign and encrypt/decrypt messages. The CD-ROM drive 30 includes decoder 32 to decode the position data signed by and received from the crypto-board 80.

As seen in FIG. 5, in process 450, the user's password 130 is sent to the device driver 72, which accepts the password 130 and passes it through unaltered to the decoder 32 (step 550). The driver 32 then internally generates with the private key 86 its own one-time password corresponding to the user's password (step 560) and verifies (step 570) that the correct password 130 was communicated by the device driver 72, thus authenticating the user for the interactive session (step 572). Otherwise, access is denied (step 575).

Once the encryption circuit 32 has authenticated the user, the driver 32 interrogates the crypto-board 80

via the device driver 72 for the current time and position information from receiver 70 (step 580). The decoder unit 30 provides the crypto-board 80 with a signed random or other bit pattern to form an "initialization vector" (step 590), i.e., a position offset, which the device driver 72 passes through the crypto-board 80 along with the request for the time and position (step 590).

The crypto-board 80 responds by preparing a packet according to a pre-established data format which includes the current time and the actual geographic position in latitude and longitude and altitude (step 600). Also included may be information identifying the satellites transmitting the position data as well as other data necessary for the computations. The crypto-board 80 also stores the provided initialization vector at a known offset within the packet and applies a cryptographic signature to the contents of the packet. The cryptographic signature can be, for example, a message digest/hash of the packet data, plus an encryption of the message digest according to some predetermined key, and may be symmetrical or asymmetrical, depending on the key or certificate stored on the crypto-board 80.

The crypto-board 80 then transmits (step 605) the signed time/location packet to the device driver 72 which relays the packet to the decoder 32/CD-ROM drive 30. The decoder 32 compares the signature of the packet received from the crypto-board 80 with a signature stored in the decoder 32 (step 610). If the signature verifies properly (step 620), the initialization vector within the packet is examined to determine if the initialization vector is indeed the same initialization vector which the decoder 32 provided to the crypto-board 80 in step 590. If this is the case, then the packet received by the decoder 32 is recent and genuine, and the time and position data are accepted as valid.

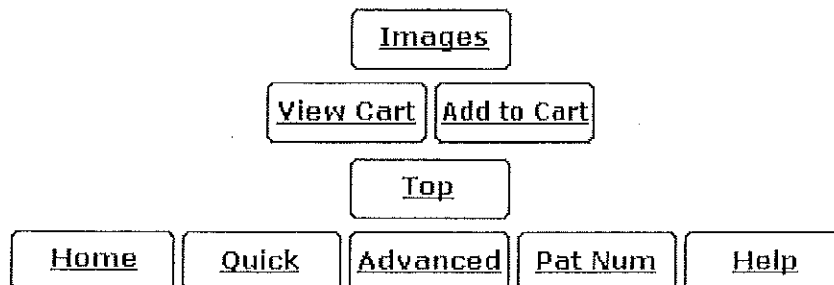
Once the packet from the crypto-board 80 is authorized based on the signature and the initialization vector, the decoder 32 compares the time and position data received from the crypto-board 80 with the policy 155 which applies to the files 144 or to a subset of files 144 (step 460). If the user is authorized to access the files 144, then the data is unlocked (step 470), decrypted with decryption keys 52 (step 480) and supplied to the user's application program 34 and displayed (step 490).

Other embodiments are within the scope of the following claims. For example, the GPS receiver need not be located at the exact position of the data distribution media reader but could be in a known location (such as a room containing a control server providing computer service to a local area network in a building) relative to the reader.

The policy files 152' may also designate geographic regions where access to certain files 144 is denied.

Control over access to files need not be limited to the use of passwords provided by the producer and entered via a keyboard. For example, certain biometric attributes, such as facial features, finger prints and/or voice prints may be substituted for or used in addition to passwords.

* * * * *



Assignments

ASSIGNMENT

For valuable consideration, we, Thomas Mark Hastings, of Lexington, Massachusetts;
Michael E. McNeil of Felton, California; Todd S. Glassey of Scotts Valley, California; and Gerald L.
Willett of Malden, Massachusetts; hereby assign to DIGITAL DELIVERY, INC., a Massachusetts
corporation having a place of business at 54 Middlesex Turnpike, Bedford, Massachusetts, and its
successors and assigns (collectively hereinafter called "the Assignee"), the entire right, title and interest
throughout the world in the inventions and improvements which are subject of an application for United
States Patent signed by us, entitled CONTROLLING ACCESS TO STORED INFORMATION, filed _____
_____, and assigned U.S. Serial Number _____, and we authorize and request the attorneys
appointed in said application to hereafter complete this assignment by inserting above the filing date and
serial number of said application when known; this assignment including said application, any and all
United States and foreign patents, utility models, and design registrations granted for any of said inventions
or improvements, and the right to claim priority based on the filing date of said application under the
International Convention for the Protection of Industrial Property, the Patent Cooperation Treaty, the
European Patent Convention, and all other treaties of like purposes; and we authorize the Assignee to apply
in all countries in our name or in its own name for patents, utility models, and design registrations and like
rights of exclusion and for inventors' certificates for said inventions and improvements; and we agree for
ourselves and our respective heirs, legal representatives and assigns, without further compensation to
perform such lawful acts and to sign such further applications, assignments, Preliminary Statements and
other lawful documents as the Assignee may reasonably request to effectuate fully this assignment.

IN WITNESS WHEREOF, I hereto set my hand and seal at Burlington Massachusetts,
this 23 day of October, 1998
Thomas Mark Hastings L.S.
Thomas Mark Hastings

STATE OF Massachusetts :
COUNTY OF Middlesex : ss.

Before me this 28 day of October, 1998, personally appeared

Thomas Mark Hastings known to me to be the person whose name is subscribed to the
foregoing Assignment, and acknowledged that he/she executed the same as his/her free act and deed for the
purposes therein contained.

Janet Althell
Notary Public

My Commission Expires: 2/04/2005

[Notary's Seal Here]

PATENT
REEL: 9555 FRAME: 0986

IN WITNESS WHEREOF, I hereto set hand and seal at Scotts Valley, Calif.
this 27th day of October, 1998.

Michael E. McNeil L.S.
Michael E. McNeil

STATE OF California:

COUNTY OF Santa Cruz :ss.

Before me this 27 day of October, 1998, personally appeared

Michael E. McNeil known to me to be the person whose name is subscribed to the foregoing Assignment, and acknowledged that he executed the same as his free act and deed for the purposes therein contained.

Chris Rehn
Notary Public

My Commission Expires:

July 9, 2002

[Notary's Seal Here]



IN WITNESS WHEREOF, I hereto set my hand and seal at Scotts Valley
this 27 day of October, 1998.

Todd S. Glassey L.S.

STATE OF Ca:

COUNTY OF Santa Cruz :ss.

Before me this 27 day of October, 1998, personally appeared

Todd S. Glassey known to me to be the person whose name is subscribed to the foregoing Assignment, and acknowledged that he executed the same as his free act and deed for the purposes therein contained.

Chris Rehn
Notary Public

My Commission Expires:

July 9, 2002

[Notary's Seal Here]



PATENT
REEL: 9555 FRAME: 0987



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Assignments on the Web > Patent Query

Patent Assignment Abstract of Title

NOTE: Results display only for issued patents and published applications. For pending or abandoned applications please consult USPTO staff.

Total Assignments: 4

Patent #: 6370629 **Issue Dt:** 04/09/2002 **Application #:** 09182342 **Filing Dt:** 10/29/1998

Inventors: THOMAS MARK HASTINGS, MICHAEL E. MCNEIL, TODD S. GLASSEY, GERALD L. WILLET

Title: CONTROLLING ACCESS TO STORED INFORMATION BASED ON GEOGRAPHICAL LOCATION AND DATE AND TIME

Assignment: 1

Reel/Frame: 009555/0985 **Recorded:** 10/29/1998 **Pages:** 4

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignors: <u>HASTINGS, THOMAS MARK</u>	Exec Dt: 10/28/1998
<u>MCNEIL, MICHAEL E.</u>	Exec Dt: 10/27/1998
<u>GLASSEY, TODD S.</u>	Exec Dt: 10/27/1998
<u>WILLETT, GERALD L.</u>	Exec Dt: 10/28/1998

Assignee: DIGITAL DELIVERY, INC.
54 MIDDLESEX TURNPIKE'
BEDFORD, MASSACHUSETTS

Correspondent: FISH & RICHARDSON P.C.
DAVID L. FEIGENBAUM
225 FRANKLIN STREET
BOSTON, MA 02110-2804

Assignment: 2

Reel/Frame: 010456/0059 **Recorded:** 12/15/1999 **Pages:** 2

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignor: DIGITAL DELIVERY, INC. **Exec Dt:** 11/08/1999

Assignee: DATUM, INC.
54 MIDDLESEX TURNPIKE
BEDFORD, MASSACHUSETTS 01730

Correspondent: FISH & RICHARDSON P.C.
DAVID L. FEIGENBAUM
225 FRANKLIN STREET
BOSTON, MA 02110-2804

Assignment: 3

Reel/Frame: 012721/0294 **Recorded:** 03/26/2002 **Pages:** 9

Conveyance: SECURITY INTEREST (SEE DOCUMENT FOR DETAILS).

Assignor: DIGITAL DELIVERY, INC **Exec Dt:** 07/07/2000

Assignee: WELLS FARGO BANK, N.A.
2030 MAIN ST

ORANGE COAST RCBO
IRVINE, CALIFORNIA 92614

Correspondent: WELLS FARGO BANK, N.A.
STEPHEN AMENDT
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ATTN: LOAN DOCUMENTATION AU 2695
SAN FRANCISCO, CA 94103

Assignment: 4

Reel/Frame: 014120/0637

Recorded: 06/02/2003

Pages: 15

Conveyance: MERGER (SEE DOCUMENT FOR DETAILS).

Assignor: DATUM, INC.

Exec Dt: 02/03/2003

Assignee: SYMMETRICOM, INC.
2300 ORCHARD PARKWAY
SAN JOSE, CALIFORNIA 95131-1017

Correspondent: GARY CARY WARE, ET AL.
JOHN J. BRUCKNER
1221 SO. MOPAC EXPRESSWAY, SUITE 400
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Search Results as of: 01/16/2006 09:14 AM

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Foreign filings of
US 6,370,629

CONTROL OVER ACCESS TO STORED INFORMATION

Patent number: JP2000163379
Publication date: 2000-06-16
Inventor: HASTINGS THOMAS MARK; MCNEIL MICHAEL E;
 GLASSEY TODD S; WILLETT GERALD L
Applicant: DATUM INC
Classification:
 - international: G06F15/00; G01S5/14; G06F12/00; G06F12/14;
 G09C1/00; H04L9/14
 - european: G06F1/00N7R2; G06F21/00N9A2
Application number: JP19990308358 19991029
Priority number(s): US19980182342 19981029

Also published as:

EP0997808 (A2)
 US6370629 (B1)
 EP0997808 (A3)
 CA2287596 (A1)
 BR9904979 (A)

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Abstract of JP2000163379

PROBLEM TO BE SOLVED: To limit the use of information to a specified geographic area by determining the geographic position of stored information to be arranged according to a signal received by a receiver supplying position information and controlling access to the stored information. **SOLUTION:** A GPS receiver 70 is arranged at the actual geographic position of a computer system 10 and receives a signal 75 from a circulating GPS satellite 90. According to the received data, the actual geometric position of information stored in a portable computer-readable CD-ROM used as a data distribution medium 35 is determined and the receiver 70 converts the received signal 75 geometric position data of precision of several meters as to the latitude and altitude and day/hour data 71 of precision of microseconds. Then the data 71 are passed through a device driver 72 to control access to stored information on the data distribution medium 35 through a CD-ROM drive 30.

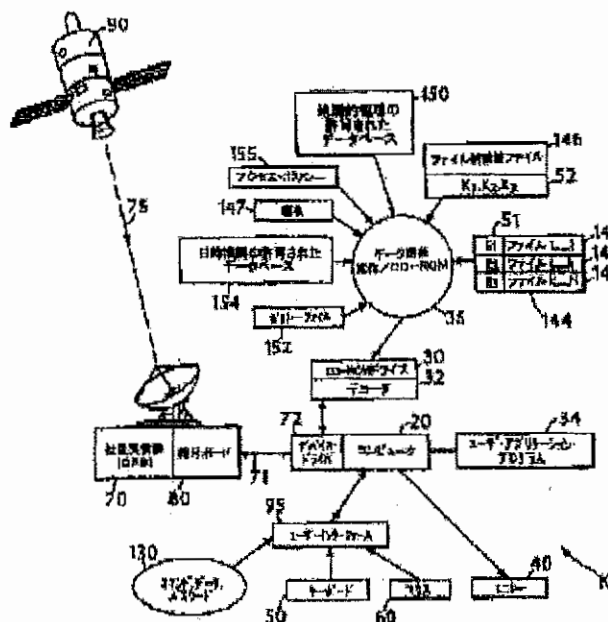


Exhibit 6 – CO-INVENTOR's AGREEMENT with DDI

This exhibit contains the DIGITAL DELIVERY CO-INVENTOR's AGREEMENT with HASTINGS and DDI.

The intent of which was to acknowledge DDI's very limited use the Glassey GEOSPATIAL DIGITAL CONTROLS in their already existing Confidential Courier product.

No other GEOSPATIAL rights are assigned and this is the basis of the disputed IP ownership in this matter.

CO-INVENTOR AGREEMENT

This is Co-Inventor Agreement ("Agreement"), is made this 26th day of October, 1998 by and between Todd S. Glassey an individual, and Michael E. McNeil an individual, together herein "Glassey-McNeil", whose mailing address is 109A Bluebonnet Lane, Scotts Valley, CA 95066 and Digital Delivery, Inc., a Massachusetts corporation, having a place of business at 54 Middlesex Turnpike, Bedford, Massachusetts 01730-1417 ("Digital"). This Agreement is made with reference to the facts in the following recitals:

RECITALS

A. Digital is the holder of U.S. Patent Number 5,646,992 for certain data and file protection and encryption technology, described further as encryption and decryption technology employing the use of passwords to control access to stored information on various distribution media. The product produced by Digital under this patent is generally referred to as the Confidential Courier, which is described in non-technical terms as a transmittal envelope which can be opened only by specifically designated persons having the encoded passwords. This patent was issued to Digital on July 8, 1997 (the "Courier Patent").

B. Digital employees Thomas Mark Hastings and Gerald L. Willett, along with Glassey-McNeil have further developed the Courier Patent technology to expand its identification and verification enablement policies by adding the new technology of geo-positioning and time/date encryption with respect to data and file storage and access. It is the intent of Digital to file for a patent on this new technology to the Courier Patent by means of a subsequent patent entitled "Controlling Access to Stored Information" which incorporates the Courier Patent, and is referred to herein as the "Controlling Access Patent".

C. During the course of the development of the technology for the Controlling Access Patent by the parties, it was discussed and agreed in principal that Digital would undertake the submission of the Controlling Access Patent application and that Glassey-McNeil would assign certain rights under the patent with respect to the underlying Courier Patent, provided that certain terms and conditions regarding the mutual rights and exclusive rights to the geo-positioning and time/date encryption policies in the Controlling Access Patent were defined and determined, and that adequate compensation from Digital to Glassey-McNeil was agreed.

D. The purpose of this Agreement is to allow the Controlling Access Patent application to be submitted as early as possible and prior to a definitive agreement between the parties with respect to each party's rights to exploit the Controlling Access Patent, the respective mutual and exclusive rights to the underlying or derivative technology, methodology, or other patentable subject matter contained or referenced in

the Controlling Access Patent, and the compensation to be paid by Digital to Glassey-McNeil for assignment of certain rights therein to Digital.

In consideration of the foregoing facts and recitals, the mutual covenants and undertakings contained therein and herein, the parties agree as follows:

1. PATENT APPLICATION TECHNOLOGY

For purposes of this Agreement, the term:

A. "Confidential Courier" means that technology developed by Digital under the Courier Patent which is embodied in the product produced and sold by Digital under the name Confidential Courier, which contains certain encryption and decryption technology to control and limit access to the information and data contained in specific files.

B. Geo-positioning and time/date technology means the enablement policy which allows data or an event to be pinpointed to occur at a certain time and physical place.

C. GPS Phase II means that geo-positioning and time/date enablement technology invented and developed by Glassey-McNeil that specifically includes a cryptographic signing and verification process with the transmittal of time and geographic positioning information that allows a legally indemnifiable degree of trust to be established in the time and geographic positioning information thus conveyed.

2. AGREEMENT IN PRINCIPLE

The parties are entering this Agreement to set forth certain terms and conditions with respect to the mutual and exclusive rights of each party to the Controlling Access Patent. Although Digital developed, produces and sells the Confidential Courier, which embodies the Courier Patent, there is no prototype nor product yet developed utilizing the new technology of geo-positioning and time/date policies to be patented under the Controlling Access Patent. In view of the uncertainties relative to the cost of developing a product under the Controlling Access Patent and the market potential of such a product, the parties have insufficient information to agree on the compensation to be paid by Digital to Glassey-McNeil for their ideas, inventions, proprietary information and contributions to the Controlling Access Patent.

It is intended that, within one year from the date hereof, a definitive agreement between the parties will be made with respect to this compensation and the mutual and exclusive rights to the Controlling Access Patent. Provided that said compensation can be negotiated by the parties or established by binding arbitration as provided herein, the definitive agreement will include the following terms and conditions:

A. Digital acknowledges that the GPS Phase II technology is solely and exclusively the idea and invention of Glassey-McNeil. Notwithstanding, Digital shall have the rights to utilize the GPS Phase II technology but limited to the Confidential Courier product and product derivatives thereof; and Digital grants to Glassey-McNeil

a perpetual non-exclusive worldwide license for the GPS Phase II technology and derivatives thereof, with rights to sublicense.

B. Glassey-McNeil shall have no rights to any part of the Courier Patent, or to the claims regarding the Courier Patent which are incorporated in the Controlling Access Patent or to the Confidential Courier product now produced by Digital.

C. Digital shall not file any opposition in the United States Patent and Trademark Office or patent offices of any other country, or take any action adverse to the filing of a patent application by Glassey-McNeil for any geo-positioning and time/date technology or technology implementing GPS Phase II, including potential patentable subject matter or products e.g., firewalls, email gateways, protocol bridges, database servers, file servers, hardware based appliances, and the like.

D. Digital shall begin and continue the development of products which shall embody the technology of the Controlling Access Patent in order to enhance or compliment the existing Confidential Courier Product as well as new products exploiting the Controlling Access Patent which are to be sold and distributed by Digital.

E. Glassey-McNeil may develop products which utilize the geo-positioning and/or time/date enablement or GPS Phase II technology, provided that any such products do not include the technology infrastructure covered by the Courier Patent.

Provided that a definitive agreement is negotiated and made by the parties which incorporates the foregoing terms, conditions, covenants, licenses, and compensation to Glassey-McNeil, Glassey-McNeil will execute assignments to Digital with respect to the Controlling Access Patent.

3. FAILURE TO MAKE DEFINITIVE AGREEMENT

A. The parties expressly agree that each of them will negotiate in good faith the terms of a definitive agreement, in light of the provisions in Section 2 above, regarding the patent rights to the Controlling Access Patent and the compensation to be paid by Digital to Glassey-McNeil for the assignment of rights therein as named co-inventors on the Controlling Access Patent application. The parties expressly agree that if they are unable or fail to make a definitive agreement before the anniversary date hereof, then each party shall have all rights as a co-inventor to fully exploit the Controlling Access Patent without accounting or control by the other.

B. If after the one year anniversary hereof, the parties are unable to make a definitive agreement as provided herein, then upon the written request of either party to the other the unresolved issues, terms and conditions will be submitted (i) first to mediation conducted by a qualified mediator, mutually selected by the parties, who has expertise in patent matters and practicable expertise in the commercial encryption industry; and (ii) if mediation does not result in a definitive agreement, then upon written request upon one party to the other, the parties shall submit all unresolved issues to mandatory binding arbitration. The issues will be submitted in writing to the arbitrator,

who shall be mutually selected by the parties, or if the parties are unable to select a single arbitrator, then each party, viz., Digital and Glassey-McNeil shall each select an arbitrator who shall then select a third arbitrator to create an arbitration panel consisting of those three arbitrators. If for any reason the first selected arbitrators cannot agree on a third arbitrator, they may apply to the superior court of Santa Cruz County, California for the name of a qualified neutral third arbitrator. The three arbitrators shall hear all the evidence, and a majority vote of the arbitrators shall make all decisions, determinations and awards in the matters before them.

It is contemplated by the parties that the fundamental issue to be decided by this mandatory arbitration is the amount and structure of the compensation to be paid to Glassey-McNeil for their contribution to the Controlling Access Patent in full respect of the terms set forth in the "AGREEMENT IN PRINCIPLE" in Section 2 hereof. In determining such compensation, the arbitrator(s) shall take into consideration the value of the patent rights to Digital by Glassey-McNeil; the cost of Digital's product development incurred by the parties; the contributions of the parties to Digital's product development; the domestic and international market potential of Digital's new products to be produced under the Controlling Access Patent, including the market potential of the Confidential Courier enhanced by the addition of new features and improvements from the geo-positioning and/or time/date technology in the Controlling Access Patent; the established and potential profitability, commercial success and current or potential popularity of such product(s); the rightful apportionment of profit among the inventors; nonpatented aspects or elements of such product(s), including the costs of manufacturing, business risks.

Any mandatory binding arbitration of matters under this section 3, or consensual arbitration of other matters arising out of this Agreement, shall be conducted by and in accordance with then existing arbitration rules of the American Arbitration Association respecting the computer and electronic commerce industry. Judgment on a binding arbitration award rendered by such arbitrator(s) may be entered in any court having jurisdiction. The parties shall each pay one half of all costs and expenses for the services of any mediator and/or arbitrator(s).

4. DEFAULT IN COMPENSATION

If, after the compensation to be paid by Digital to Glassey-McNeil for their contributions to the technological inventions under the Controlling Access Patent is established by an agreement made by the parties or through a determination from binding arbitration, Digital defaults in the payment terms thereof for any reason, then all rights, i.e. patent, trade secret, etc., to the inventions and technology covered under the Controlling Access Patent, which includes the Confidential Courier, shall revert to Glassey-McNeil as Co-inventors along with Digital. In such event, and each party shall have all right to exploit said inventions and technology without any notice, obligation or accounting to the other. Notwithstanding, the parties shall each execute and deliver such further documents and shall take such other actions as may be reasonably necessary to effect this reversion of rights.

5. NONASSIGNABILITY

The parties hereto have entered into this agreement in contemplation of personal performance hereof by each other and intend that the rights granted and obligations imposed hereunder not be extended to other entities without the other party's express written consent, except that Glassey-McNeil may transfer their interests herein to a corporation whose majority of voting shares are owned and controlled by them. This Agreement shall be binding and shall inure to the benefit of the parties and to their heirs, successors, and assigns.

6. NOTICES

Notices under this Agreement shall be in writing and sent to the parties at the addresses first above written, or to such other addresses as the parties may designate to the other in writing.

7. ATTORNEY FEES

In the event that either party must take legal action, including arbitration, but except for arbitration employed to determine the compensation referenced in Section 3 herein, to enforce or interpret this agreement, or any provision hereof, the prevailing party shall be entitled to recover its reasonable attorney fees and costs as determined by the Court or arbitrator.

8. INTEGRATION

This agreement, any exhibits hereto, set forth the entire agreement and understanding between the parties as to the subject matter hereof and merges all prior discussions between them. Neither of the parties shall be bound by any agreements, understandings or representations with respect to such subject matter other than as expressly provided herein or in a subsequent writing signed by the parties hereto.

9. SEVERABILITY

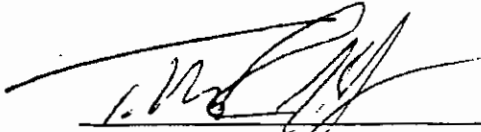
Nothing in this Agreement shall be interpreted or construed as "an agreement to agree" such that this Agreement would be rendered unenforceable. Accordingly, any provision of this Agreement prohibited by, or unlawful or unenforceable, under any applicable law of any jurisdiction, shall be ineffective, without affecting any other provision of this Agreement. To the extent, however, that the provisions of such applicable law may be waived, they are hereby waived to the end that this Agreement may be deemed to be a valid and binding agreement enforceable in accordance with its terms.

10. LAW

This agreement will be governed and interpreted by the laws and courts of the State of California.

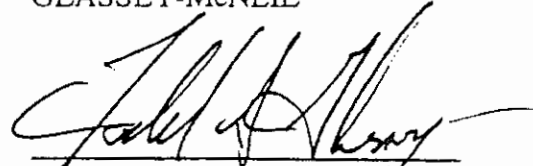
IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

DIGITAL DELIVERY


[Signature]

Tomack Hastings President
[Please Print Name/Title]

GLASSEY-McNEIL


TODD S. GLASSEY

Michael McNeil
MICHAEL E. McNEIL

Exhibit 7 – DATUM Consulting Contracts between Parties

This exhibit contains the two consulting contracts from DATUM that DATUM suggested be two separate agreements. The agreement was based on that GLASSEY negotiated a \$150/hr USD cap on GMT's services to be split between McNeil and Glassey evenly for their work in producing DATUM business development materials, and to also fund their own continued development of their Intellectual Properties, which ultimately are the core of this dispute.

DATUM volunteered to handle this as two separate payment streams to eliminate GMT's needing to keep its own books there as well offloading payroll onto the contract form.

CONSULTING AGREEMENT

1. INTRODUCTION

This agreement is entered into by Datum Inc., Bancomm-Timing Division; 6781 Via Del Oro; San Jose, CA 95119, herein after referred to as DATUM, and:

Name/Organization: Michael McNeil

Address: 1271 Lost Acre Drive, Felton, California 95018

TaxID/SSN#: 516 54 6307 herein after referred to as CONSULTANT for the purpose of securing technical consulting services as detailed in the STATEMENT OF WORK attached.

2. PERIOD

The period of this agreement is: 4th May 1998 to 4th July 1998. If either party wishes to discontinue this Agreement, either may do so upon thirty (30) days Notice to the other party. The "Termination Date" shall be the date on which the thirtieth (30th) day falls. If one party breaches this Agreement, however, or license provided herein, the non-breaching party may, at its option, provide the breaching party with Notice immediately and automatically terminating this Agreement. The date of Notice shall be the "Termination Date". All work shall be stopped on the Termination Date.

3. CONFIDENTIALITY

Each party shall exercise due diligence to preserve the confidentiality of Trade Secrets and other valuable proprietary information provided by the other in support of the contracted effort and during the term of the Consulting Agreement. All information designated as a Trade Secret or Confidential shall be maintained as confidential even after the termination of this Consulting Agreement.

3.1: "Trade Secret" means the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, improvement, confidential business or financial information, listing of names, addresses or telephone numbers, or other information relating to any business of profession which is secret and of value. To be a Trade Secret the owner thereof must have taken measures to prevent the secret from becoming available to persons other than those selected by the owner to have access thereto for limited purposes. Information shall not be deemed to be a Trade Secret, confidential or proprietary which (1) is known to the other party before disclosure by owner of the information; (2) is now or hereafter becomes part of the public domain without fault of the other party; (3) is disclosed to the other party on a non-confidential basis by a third party under no legal disability to make such a disclosure, or (4) is disclosed pursuant to judicial action or Governmental regulation, providing efforts are made to ensure that further dissemination will not occur.

4. NON COMPETITION

During this Agreement and for a period of 6 months after the termination of this Agreement, CONSULTANT agrees not to provide any original, Intellectual Property newly developed for Datum during the course of this Agreement, and not a Derivative Work of CONSULTANT's Intellectual Property, to DATUM's competitors as detailed below. These competitors are as follows:

Hewlett Packard, various locations.
Timing Solutions, Boulder, CO
True Time Inc, Santa Rosa, CA
Odetics, Anaheim, CA
Trak Microwave, various locations.
Arbiter Systems, San Luis Obispo, CA
DataChron, San Diego, CA

5. RIGHTS IN DATA

DATUM retains all rights in data including, but not limited to ownership of all materials, information, software in any format, and other properties generated in whole or in part by the CONSULTANT during the terms of this contract. Without limiting the prior sentence, the term properties includes specifications, documents, data, files, input/output, ideas, documentation and any related material. This paragraph shall survive the termination of this agreement.

If the CONSULTANT wants to retain data right ownership and license products and technologies to DATUM, a separate licensing agreement shall be executed. CONSULTANT shall identify these products and technologies to DATUM prior to initiating any work.

6. CHARGE RATE

CONSULTANT agrees to charge, and DATUM agrees to pay, \$ 75 per hour for CONSULTANT'S service. Further, DATUM shall reimburse to CONSULTANT any and all expenses, including travel, hotel, taxes, and or equipment purchases made in furtherance of this Agreement. CONSULTANT will invoice DATUM for services and expenses as outlined in Paragraph #7 below.

7. PAYMENT

CONSULTANT shall provide DATUM with an invoice based on completed milestones or bi-weekly work completed. This invoice shall include hours expended; a brief statement detailed the nature of the task completed; rate; total hourly billing; materials and service charges expended (included sales taxes, if any); travel and per diem as previously agreed; and total invoice amount.

Normal payment schedule:

Week _n	Invoice processed at Bancomm-Timing San Jose and submitted to Accounting.
Week _{n+1}	Invoice processed at Bancomm-Timing, CA, and mailed on Thursday or Friday.
Week _{n+2}	Payment received.

8. LIMITATIONS OF LIABILITY

8.1 Limited per attached SpectraDynamics Limitation of Liability Statement.

9. GENERAL

9.1 CONSULTANT is, and shall hold itself out only as, an independent contractor of DATUM.

9.6 All Notices, requests, demands, applications, services of process, and other communications which are required to be or may be given under this Agreement shall be in writing and shall be deemed to have been duly given if sent by telecopy or facsimile transmission, answer back requested, or delivered by courier or mailed, certified first class mail, postage prepaid, return receipt requested, to the parties to this Agreement at the following addresses:

To DATUM:
6781 Via del Oro
San Jose, CA 95119

Attn.: President
 Telephone: _____
 Telecopy: _____

To: CONSULTANT:
1271 Lost Acre Dr.
Felton, CA 95018

Attn.: President
 Telephone: 408 335-2069
 Telecopy: _____

This agreement is approved by:
 Datum Inc, Bancomm-Timing Division

M. Stone

By: Mitch Stone
 Title: Vice President
 Date: 4th May 1998

FILE: j:\management\consult\glassey consulting Agreement.doc

Consultant:

Michael McNeil

By: Michael McNeil
 Title: _____
 Date: 5/12/98

CONSULTING AGREEMENT

1. INTRODUCTION

This agreement is entered into by Datum Inc., Bancomm-Timing Division; 6781 Via Del Oro; San Jose, CA 95119, herein after referred to as DATUM, and:

Name/Organization: Todd Glassey

Address: 109A Bluebonnet Lane, Scotts Valley, Ca 95066

TaxID/SSN#: 579-07-0748 herein after referred to as CONSULTANT for the purpose of securing technical consulting services as detailed in the STATEMENT OF WORK attached.

2. PERIOD

The period of this agreement is: 4th May 1998 to 4th July 1998. If either party wishes to discontinue this Agreement, either may do so upon thirty (30) days Notice to the other party. The "Termination Date" shall be the date on which the thirtieth (30th) day falls. If one party breaches this Agreement, however, or license provided herein, the non-breaching party may, at its option, provide the breaching party with Notice immediately and automatically terminating this Agreement. The date of Notice shall be the "Termination Date". All work shall be stopped on the Termination Date.

3. CONFIDENTIALITY

Each party shall exercise due diligence to preserve the confidentiality of Trade Secrets and other valuable proprietary information provided by the other in support of the contracted effort and during the term of the Consulting Agreement. All information designated as a Trade Secret or Confidential shall be maintained as confidential even after the termination of this Consulting Agreement.

3.1: "Trade Secret" means the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, improvement, confidential business or financial information, listing of names, addresses or telephone numbers, or other information relating to any business of profession which is secret and of value. To be a Trade Secret the owner thereof must have taken measures to prevent the secret from becoming available to persons other than those selected by the owner to have access thereto for limited purposes. Information shall not be deemed to be a Trade Secret, confidential or proprietary which (1) is known to the other party before disclosure by owner of the information; (2) is now or hereafter becomes part of the public domain without fault of the other party; (3) is disclosed to the other party on a non-confidential basis by a third party under no legal disability to make such a disclosure, or (4) is disclosed pursuant to judicial action or Governmental regulation, providing efforts are made to ensure that further dissemination will not occur.

4. NON COMPETITION

During this Agreement and for a period of 6 months after the termination of this Agreement, CONSULTANT agrees not to provide any original, Intellectual Property newly developed for Datum during the course of this Agreement, and not a Derivative Work of CONSULTANT's Intellectual Property, to DATUM's competitors as detailed below. These competitors are as follows:

Hewlett Packard, various locations.
Timing Solutions, Boulder, CO
True Time Inc, Santa Rosa, CA
Odetics, Anaheim, CA
Trak Microwave, various locations.
Arbiter Systems, San Luis Obispo, CA
DataChron, San Diego, CA

5. RIGHTS IN DATA

DATUM retains all rights in data including, but not limited to ownership of all materials, information, software in any format, and other properties generated in whole or in part by the CONSULTANT during the terms of this contract. Without limiting the prior sentence, the term properties includes specifications, documents, data, files, input/output, ideas, documentation and any related material. This paragraph shall survive the termination of this agreement.

If the CONSULTANT wants to retain data right ownership and license products and technologies to DATUM, a separate licensing agreement shall be executed. CONSULTANT shall identify these products and technologies to DATUM prior to initiating any work.

6. CHARGE RATE

CONSULTANT agrees to charge, and DATUM agrees to pay, \$ 75 per hour for CONSULTANT'S service. Further, DATUM shall reimburse to CONSULTANT any and all expenses, including travel, hotel, taxes, and or equipment purchases made in furtherance of this Agreement. CONSULTANT will invoice DATUM for services and expenses as outlined in Paragraph #7 below.

7. PAYMENT

CONSULTANT shall provide DATUM with an invoice based on completed milestones or bi-weekly work completed. This invoice shall include hours expended; a brief statement detailed the nature of the task completed; rate; total hourly billing; materials and service charges expended (included sales taxes, if any); travel and per diem as previously agreed; and total invoice amount.

Normal payment schedule:

Week _n	Invoice processed at Bancomm-Timing San Jose and submitted to Accounting.
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Week _{n+2}	Payment received.

8. LIMITATIONS OF LIABILITY

8.1 Limited per attached SpectraDynamics Limitation of Liability Statement.

9. GENERAL

9.1 CONSULTANT is, and shall hold itself out only as, an independent contractor of DATUM.

9.6 All Notices, requests, demands, applications, services of process, and other communications which are required to be or may be given under this Agreement shall be in writing and shall be deemed to have been duly given if sent by telecopy or facsimile transmission, answer back requested, or delivered by courier or mailed, certified first class mail, postage prepaid, return receipt requested, to the parties to this Agreement at the following addresses:

To DATUM:
6781 Via del Oro
San Jose, CA 95119

Attn.: President
 Telephone: _____
 Telecopy: _____

To: CONSULTANT:
TODD GLASSEY
109A Simpsonville
Scotts Valley CA 95066

Attn.: President
 Telephone: (909) 439-7811
 Telecopy: _____

This agreement is approved by:
 Datum Inc, Bancomm-Timing Division

Mitch Stone

By: Mitch Stone
 Title: Vice President
 Date: 4th May 1998

FILE: j:\management\consult\glassey consulting Agreement.doc

Consultant:

Todd Glassey

By: TODD GLASSEY
 Title: _____
 Date: 12-May-98

Exhibit 8 – Communications between Parties

This exhibit contains the following letters from GMT Counsel to Datum Counsel on Datum's breach and dealing in bad faith as well as DDI's limited use of Glassey and McNeil's Intellectual Properties

- | | | |
|---------------------------------|---|---|
| May 14 th 1999 | - | GMT/Negotiation of Release of Rights |
| June 7 th 1999 | - | Continuing GMT/Negotiation of Release of Rights |
| June 29 th 1999 | - | Datum v GMT – Ownership of IP and Breaches of NDA by Datum and other damages |
| August 3 rd 1999 | - | Ongoing dispute memorandum |
| August 24 th 1999 | - | Datum v GMT – Ownership of IP and Breaches of NDA by Datum and other damages and DDI Damages (2 separate letters) |
| September 24 th 1999 | - | Ongoing dispute memorandum |

May 14, 1999

John F. Cannon, Esq.
STRADLING YOCCA CARLSON & RAUTH
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660-6441

Via Facsimile
and U.S. Mail

**Re: Glassey McNeil Technologies, Inc. ("GMT") and GMT
Principals; Datum Corporation ("Datum"); Negotiations for
Release of Rights in GPS Patent; Breaches of Nondisclosure
Agreement by Datum; Other Potential Causes of Action.**

Dear Mr. Cannon:

As you know, this office represents GMT and its principals, Todd S. Glassey ("Glassey") and Michael E. McNeil ("McNeil") in the ongoing negotiations with Datum as to compensation due and owing to GMT and Glassey/McNeil in consideration for Glassey/McNeil and GMT releasing their interests in certain patents which were developed in concert with Digital Delivery, Inc. ("Digital") and T. Mark Hastings, its C.E.O. In addition, GMT and Glassey/McNeil asserts that Datum has misappropriated certain GMT and Glassey/McNeil intellectual properties which were originally disclosed to Datum pursuant to the Nondisclosure Agreement between Datum and GMT dated November 24, 1998 and made retroactive to all exchanges of intellectual properties between Datum and GMT since April, 1998 (the "NDA").

Datum's recent announcement of its intent to acquire Digital has created a situation where it is clearly in the best interest of Datum, Digital, GMT, and Glassey/McNeil to resolve the various issues set forth herein on mutually agreeable terms and conditions. GMT contends that Digital was a GMT customer whose identity was revealed to Datum pursuant to and in compliance with the NDA. Under the NDA, Datum was permitted to use GMT

intellectual properties only for the purpose of furthering the business relationship between GMT and Datum. Datum did not have the authority under the NDA to acquire Digital without the written consent of GMT. This acquisition, if consummated, is certain to cause GMT considerable monetary harm and damage the reputation of GMT and Glassey/McNeil in the technology markets in which GMT and Glassey/McNeil now do business. The primary source of this harm is the apparent intention of Datum to develop a product for the electronic commerce marketplace, "and expedite its deployment of the industry's first trusted time infrastructure for Internet applications where security and authenticity of transmission is essential" (Datum Press Release, April 14, 1999).

GMT contends, as explained fully below, that Datum is misappropriating GMT and Glassey/McNeil intellectual properties which are required or necessary for Datum to develop such a product. Datum, through its consulting relationship with GMT, became exposed to such intellectual properties pursuant to GMT's disclosure of same to Datum under the NDA. Datum's use of these intellectual properties in its anticipated product line exposes Datum to liability for misappropriation of such properties and will damage GMT's ability to carry forward with its own product of substantially the same character as that which Datum now proposes to bring to market.

Glassey first approached Datum in February, 1998 to seek out a partner to build a certifiable timebase solution for Glassey document stamping system and E-mail gateway. The result of this approach was that Datum retained Glassey as consultant pursuant to a Consulting Agreement between Datum and Glassey dated May 4, 1999 (the "Consulting Agreement"). The Consulting Agreement has a term of only two (2) months. Despite the thrust of the Consulting Agreement, which suggests that Glassey was hired for technical consulting services, Glassey's only role as a Datum consultant was to provide Datum with market information necessary or required to assist Datum's entry into the electronic commerce marketplace. David S. Robinson, Datum's President, acknowledges this in the enclosed E-mail correspondence with Glassey in November, 1998. Such information primarily took the form of business contacts and marketing reports. You have sent to the undersigned, enclosed with your cover letter of April 13, 1999, a marketing report of this character. I received this correspondence in response to a request that you provide me with an inventory of all intellectual property which Datum owned as a result of its consulting

John F. Cannon, Esq.
May 14, 1999
Page 3

relationship with Glassey. It would therefore appear that Datum concedes that the only intellectual properties derived from Glassey are such market-related data.

However, Datum engineering employees, including Dave Thiede, have been under the impression that Glassey was hired to do certain engineering work. During Glassey's participation in various Datum engineering meetings, Glassey was repeatedly requested to perform certain engineering services for Datum. Any engineering services which Glassey performed for Datum are protected under the NDA, and any such work product was disclosed by Glassey to Datum in accord with the applicable provisions of the NDA.

Such data provided to Datum and protected under the NDA includes, but is not necessarily limited to, the following: the lightweight timestamping proposal, hardware systems and PCMCIA surveys, architectural design of the TTI and software components thereof, the Glassey TTI2 system, all application programming interfaces and the software analysis on such.

In light of the above, GMT and Glassey does not agree with the Datum position taken in the above-referenced E-mail from David S. Robinson in which it is asserted that GMT has no ownership of the TTI (Trusted Timing Infrastructure). The first Datum document which details this concept was produced by Mr. Robinson in November, 1998, and was clearly based entirely on GMT and Glassey intellectual properties disclosed to Datum pursuant to the NDA for the sole permissible purpose of furthering the business relationship between GMT and Datum.

In recent telephone conversations with T. Mark Hastings, now President of Datum's electronic commerce division, it was clear that Mr. Hastings was not aware of the extent to which Datum has misappropriated GMT and Glassey/McNeil intellectual properties in furtherance of the business plan now laid for Datum after its acquisition of Digital. When I first spoke with Mr. Hastings, he was not aware that the NDA existed. After I informed Mr. Hastings about the NDA, Mr. Hastings indicated to the undersigned that clearly GMT and Glassey are entitled to receive "substantial compensation" as a result of Glassey's efforts and of the apparent misappropriation of intellectual properties which took place throughout 1998. He further indicated that clearly "mistakes were made" on both the Datum and GMT side of the relationship. My response to this commentary was that GMT and Glassey had been

John F. Cannon, Esq.
May 14, 1999
Page 4

attempting to get a complete agreement in force with Datum which correctly memorialized all applicable terms and conditions with respect to the relationship to date and set forth an operational plan for how the companies would work together in the future. Datum has resisted this process from the outset, has unreasonably delayed and procrastinated the matter, and has now caused my clients significant harm by the actions described above. It strongly appears that Datum executives, including David S. Robinson, Mitch Stone, Erik van der Kaay, and others were acting in bad faith to deprive GMT and Glassey/McNeil of its intellectual properties. One thing that is abundantly clear is that but for the actions and assistance of GMT and Glassey, Datum would not be entering into the electronic commerce marketplace and would never have acquired Digital. GMT and Glassey did not disclose the information to Digital under the NDA exclusively out of the goodness of heart, nor did GMT and Glassey ever understand that their compensation for misappropriation of intellectual property rights would be limited to any fees paid to Glassey under the Consulting Agreement pursuant to which Datum only acquired certain marketing and market-related data.

GMT and Glassey/McNeil hereby request that a meeting be set immediately to resolve these issues with Datum and Digital. In the event that such a request is not granted, GMT and Glassey/McNeil shall pursue all available legal rights and remedies to recover for the harm Datum and Digital have created to date. I look forward to your prompt response and cooperation with the goal of achieving a prompt and equitable resolution.

Very truly yours,

JASON R. BOOK, Esq.

JRB:jrb
Enclosures

June 7, 1999

John F. Cannon, Esq.
STRADLING YOCCA CARLSON & RAUTH
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660-6441

Via Facsimile
and U.S. Mail

**Re: Glassey McNeil Technologies, Inc. ("GMT") and GMT
Principals; Datum Corporation ("Datum"); Negotiations for
Release of Rights in GPS Patent; Breaches of Nondisclosure
Agreement by Datum; Other Potential Causes of Action.**

Dear Mr. Cannon:

The following is my response to your letter dated May 21, 1999, setting forth the detailed positions of GMT and Glassey/McNeil with respect to certain of the disputed issues with Datum. All capitalized terms shall have the same meaning herein as in my letter dated May 14, 1999. I agree with you that a meeting between counsel is, in all likelihood, the most appropriate next step. Please give me your feedback to this correspondence as soon as possible and we can coordinate such a meeting.

With respect to Datum's concerns regarding the Co-Inventor Agreement between Glassey/McNeil and Digital, GMT and Glassey contend that they: (1) disclosed to Datum the existence of this project with Digital from its outset; (2) offered Datum the opportunity to participate in the project; and (3) Datum repeatedly refused this opportunity on the grounds that the subject matter of the Co-Inventor Agreement had nothing to do with Datum's core business. I am not surprised that Datum has changed its attitude upon its venturing into the E-commerce marketplace. However, there were numerous conversations between Glassey and Datum executives, including David S. Robinson and Mitch Stone, in which Datum simply indicated that it was not interested in participating in this project.

Furthermore, the subject matter of the Co-Inventor Agreement is not based upon or otherwise makes use of any Datum intellectual property, the genesis of this project being traceable back to early 1997; well before the relationship between Datum and GMT/Glassey/McNeil ever began. GMT/Glassey/McNeil have been in negotiations with Digital regarding the Co-Inventor Agreement for an extended period of time and the development work which related to the patent filed by Digital was performed prior to the existence of the Consulting Agreement. In light of the above, GMT/Glassey/McNeil assert that the existence of the Co-Inventor Agreement should come as no surprise to Datum and Datum has no rights to any of the intellectual properties related thereto.

As to Datum's contention that the architectural design of the TTI and software components thereof were created by David S. Robinson and are exclusively owned by Datum, GMT/Glassey/McNeil contend that these items are based entirely on GMT/Glassey/McNeil intellectual properties and that these intellectual properties were not conveyed to Datum pursuant to the Consulting Agreement, which had a term of only two (2) months from May 4, 1998 to July 4, 1998. On October 4, 1998, GMT and Glassey submitted a proposal to Datum with regard to the design of the software components of the TTI. This proposal was protected under the NDA and contained appropriate confidentiality and intellectual property legends thereon. Datum refused to allow GMT/Glassey/McNeil to bid on this design work, but nonetheless accepted the proposal to use for qualifying other consulting resources. The software components of the TTI are clearly based on this proposal and were not conveyed to Datum pursuant to the Consulting Agreement or otherwise. All information contained within the proposal is GMT intellectual property and is clearly designated as such.

Furthermore, in the enclosed letter from David S. Robinson to Glassey and Michael S. King dated February 26, 1999, Mr. Robinson implies (at minimum) that the ownership of the TTI and its component intellectual properties is divided between Datum and GMT/Glassey/McNeil. Mr. Robinson proposed a draft Royalty Agreement for review by GMT/Glassey/McNeil, which was enclosed with such letter, a copy of which is enclosed herewith. Mr. Robinson states in his letter that in consideration for royalties to be paid to GMT:

"GMT/Swsol acknowledges that the Datum TTI and any derivative timing infrastructures developed solely or jointly by Datum and GMT/Swsol during

the e-commerce development period 5 May 1999 to 31 December 1999; is the intellectual property of Datum, Inc.”

In the draft Royalty Agreement, Paragraph 2.(a) provides as follows:

“(a) Ownership of Rights. Datum shall own all right, title and interest...relating to any and all inventions...works of authorship, designs, know-how, ideas and information made or conceived or reduced to practice, in whole or in part, by GMT or GMT’s employees or subcontractors in the course of performing services for Datum, *whether under the express terms of the Consulting Agreement or otherwise...*” (Emphasis added.)

Again, a primary reason that GMT did not agree to this term is that the original intent and agreement between the parties was that ownership of all intellectual properties which were brought to the relationship at the outset would remain with their original owner. GMT did not enter into a relationship with Datum for the purpose of wholesaling off its core technical intellectual properties.

On a related note, we reiterate that the consultancy period was confined to the term of two (2) months under the Consulting Agreement, nothing more. Datum is now claiming that because it continued to pay consideration to GMT/Glassey/McNeil through the end of 1998 that GMT/Glassey/McNeil were operating under the terms of the Consulting Agreement during the period beginning July 5, 1998 and ending December 31, 1998. Paragraph 2. of the Consulting Agreement provides:

“The period of this agreement is 4th May 1998 to 4th July 1998.”

Paragraph 9.2 (incorrectly set forth as Paragraph 9.6) of the Consulting Agreement further provides:

“All Notices, requests, demands, applications, services of process, and other communications which are required to be *or may be given under this Agreement* shall be in writing...” (Emphasis added.)

John F. Cannon, Esq.
June 7, 1999
Page 4

No notice, written or otherwise, of extension or renewal of the Consulting Agreement was ever provided by either party. Thus, the Consulting Agreement expired by its terms. The fact that Datum paid consideration to GMT/Glassey/McNeil from July through December of 1998 does not establish, without more, that GMT/Glassey/McNeil were operating as consultants during this time frame. Invoices sent by GMT/Glassey/McNeil during this time period are enclosed for your review. These invoices describe the Six Thousand Dollar (\$6,000.00) per week charge as a "retainer", which is exactly what was intended by the parties. Datum was paying GMT/Glassey/McNeil a retainer until the terms of the relationship between the parties were finalized in complete written agreements. This retainer was in consideration for GMT/Glassey/McNeil's availability pursuant to (as Paragraph 10. of the NDA provides):

"... a verbal agreement of the same terms and conditions that arose between Todd S. Glassey, GMT and David Robinson, Datum — Bancomm Timing when GMT was retained by Datum in April of 1998 to investigate the common market/product potential of a secure timebase for e-commerce."

All disclosures of intellectual property between the parties are subject to this NDA. In addition, the following documents memorialize and detail what intellectual properties each brought to the relationship:

Talk about disparagement here.

Very truly yours,

JASON R. BOOK, Esq.

JRB:jrb
Enclosures

June 24, 1999

John F. Cannon, Esq.
STRADLING YOCCA CARLSON & RAUTH
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660-6441

Via Facsimile
and U.S. Mail

**Re: Glassey McNeil Technologies, Inc. ("GMT") and GMT
Principals ("Glassey/McNeil"); Datum Corporation ("Datum");
Ownership of Intellectual Property; Breaches of Nondisclosure
Agreement by Datum; Other Damages.**

Dear Mr. Cannon:

The following is my response to your letter dated May 21, 1999, setting forth the detailed positions of GMT and Glassey/McNeil with respect to certain disputed issues with Datum. All capitalized terms shall have the same meaning herein as in my letter dated May 14, 1999. I agree with you that a meeting between counsel is, in all likelihood, the most appropriate next step. Please give me your feedback to this correspondence as soon as possible and we can coordinate such a meeting.

1. Digital and the Co-Inventor Agreement.

With respect to Datum's concerns regarding the Co-Inventor Agreement between Glassey/McNeil and Digital, Glassey/McNeil contend that they: (1) disclosed to Datum the existence of this project with Digital from its outset; (2) offered Datum the opportunity to participate in the project; and (3) Datum repeatedly refused this opportunity on the grounds that the subject matter of the Co-Inventor Agreement had nothing to do with Datum's core business. Numerous conversations regarding Glassey/McNeil's project with Digital took place between Glassey and Datum executives in October, 1998, including conversations with David Robinson and Mitch Stone, who simply indicated that Datum was not interested in participating.

John F. Cannon, Esq.

June 24, 1999

Page 2

Furthermore, the subject matter of the Co-Inventor Agreement is not based upon or otherwise uses any Datum intellectual property. The genesis of this project is traceable back to early 1997; well before the relationship between Datum and GMT/Glassey/McNeil ever began. GMT/Glassey/McNeil had been in negotiations with Digital regarding the Co-Inventor Agreement for an extended period of time and the development work which related to the patent filed by Digital was performed prior to the existence of the Consulting Agreement (TODD, CAN YOU GIVE ME EXACT DATES?). In light of the above, GMT/Glassey/McNeil assert that the existence of the Co-Inventor Agreement should come as no surprise to Datum and Datum has no rights to any of the intellectual properties related thereto.

2. Background on the Relationship with Datum and the Consulting Agreement.

Aside from the above issues, Datum contends that due to its continual payment of consideration to GMT/Glassey/McNeil during the period beginning July 5, 1998 and ending December 31, 1998, GMT/Glassey/McNeil were operating under the terms of the Consulting Agreement during that time, although the Consulting Agreement had expired by its terms on July 4, 1998. As a result, everything GMT/Glassey/McNeil disclosed to Datum from July 5, 1998 until December 31, 1998 is Datum's property. This contention is fraught with inconsistencies. To clarify the matter, some background on the existence of the Consulting Agreement and the true intent behind the relationship is appropriate.

After having first approached Datum in February, 1998, Glassey engaged in an ongoing dialogue with Datum executives including David Robinson, Mitch Stone, and Davey Briggs regarding the potential for partnering in a business opportunity involving development of a secured timebase solution for E-commerce. The vision for such a solution was clearly Glassey's and that of no other person or entity. Datum's response to this vision, through Mr. Robinson, was that Datum wished to retain Glassey to perform market development and business development work geared to bring Datum into the E-commerce marketplace. In early May, 1998, Datum indicated a desire to memorialize this arrangement on paper, and through Mr. Stone presented the Consulting Agreement to Glassey.

Glassey's response upon reviewing the Consulting Agreement was that it did not accurately reflect the terms of the relationship with Datum as previously agreed between the parties. Glassey was expecting Datum to present a marketing-type contract, and was taken aback by the nature of the Consulting Agreement and its provisions for conveyance of

John F. Cannon, Esq.

June 24, 1999

Page 3

intellectual property. Glassey voiced this concern to Mr. Stone, who replied that: (1) this was the only contract that he had available; (2) signing this contract was the only way to get the agreed-upon retainer payments to GMT/Glassey/McNeil started; (3) Mr. Robinson was in Europe for a one-month period and it would be impossible to produce another contract without Mr. Robinson's review and signature; (4) since GMT/Glassey/McNeil was bringing its marketing contacts and customers to Datum, these relationships were the only intellectual properties which might be inadvertently transferred to Datum via the Consulting Agreement and to protect against this, Datum and GMT/Glassey/McNeil should execute the standard Datum Nondisclosure Agreement which makes explicit reference to relationships as protected property; (5) since the term of the agreement was for only sixty (60) days, and since GMT/Glassey/McNeil were reporting to Mr. Stone and performing only marketing functions, there would be no risk of conveyance of technical intellectual properties to Datum; (6) immediately upon Mr. Robinson's return, the Consulting Agreement would be superceded in its entirety by the terms of an agreement between GMT/Glassey/McNeil and Datum which accurately memorialized the verbal agreement between the parties; and (7) to further clarify the situation at the outset, Mr. Stone suggested that Glassey identify all the intellectual properties with which GMT/Glassey/McNeil brought to the Datum relationship, which was done and discussed with Mr. Stone in May, 1998.

During the term of the Consulting Agreement, GMT/Glassey/McNeil performed marketing and business development services of the same or similar character as the report which was originally enclosed with your correspondence of April 13, 1999, and performed no services of a technical nature whatsoever. Immediately upon the expiration of the term of the Consulting Agreement, Glassey approached Datum through Mr. Robinson and attempted to get the correct terms of the agreement between the parties reduced to writing. Repeatedly throughout late 1998, Mr. Robinson acknowledged that this needed to be done, but assured Glassey not to worry about the issue since the terms of the NDA (attached hereto as EXHIBIT "A") would protect both Datum and GMT/Glassey/McNeil. The terms of the true agreement between the parties were never entirely reduced to writing, despite persistent efforts by my clients.

3. The Consulting Agreement and the NDA.

The above history clarifies some peculiarities regarding the Consulting Agreement and the relationship in general which would otherwise defy explanation. To begin with, you will note that Paragraph 1 of the Consulting Agreement provides:

"This agreement is entered into...for the purpose of securing technical consulting services as detailed in the STATEMENT OF WORK attached."

No attached statement of work ever existed in connection with the Consulting Agreement. This was because GMT/Glassey/McNeil were not hired to perform technical engineering services, contrary to the letter and spirit of the Consulting Agreement. As such, a statement of work would have rendered the Consulting Agreement even more meaningless.

The second peculiarity is the mere existence of the NDA. If the relationship between the parties was a true consulting relationship under the terms of the Consulting Agreement, the existence of the NDA would seem superfluous and inappropriate.

We reiterate that the consultancy period was confined to the term of sixty (60) days under the Consulting Agreement, nothing more. Paragraph 2 of the Consulting Agreement provides:

"The period of this agreement is 4th May 1998 to 4th July 1998."

Paragraph 9.2 (incorrectly set forth as Paragraph 9.6) of the Consulting Agreement further provides:

"All Notices, requests, demands, applications, services of process, and other communications which are required to be *or may be given under this Agreement* shall be in writing..." (Emphasis added.)

No notice, written or otherwise, of extension or renewal of the Consulting Agreement was ever provided by either party. Thus, the Consulting Agreement expired by its terms on July 4, 1998. The mere fact that Datum paid consideration to GMT/Glassey/McNeil from

July through December of 1998 does not establish that GMT/Glassey/McNeil were operating as consultants during this time frame.

Invoices sent by GMT/Glassey/McNeil during its relationship with Datum are attached hereto as EXHIBIT "B" for your review. As you can see, certain invoices sent in the fall of 1998 do not reference hourly consulting time as had been the case during the term of the Consulting Agreement, but reflect a flat rate of Six Thousand Dollars (\$6,000.00) every two (2) weeks. In accord with the true intent of the parties, these invoices describe the Six Thousand Dollar (\$6,000.00) charge as a "retainer". This substantiates the changes in the terms of the relationship subsequent to the expiration of the Consulting Agreement. During this time, Datum was paying GMT/Glassey/McNeil a retainer until the terms of the relationship between the parties were finalized in complete written agreements. This retainer was in consideration for GMT/Glassey/McNeil's availability pursuant to (as Paragraph 10 of the NDA provides):

"... a verbal agreement of the same terms and conditions that arose between Todd S. Glassey, GMT and David Robinson, Datum & Bancomm Timing when GMT was retained by Datum in April of 1998 to investigate the common market/product potential of a secure timebase for e-commerce."

In this vein, the NDA is the single document which most closely memorializes the true terms of the relationship between the parties. The only work product produced for Datum during the Consulting Agreement were marketing reports and introductions, and for this information Datum clearly paid. All other disclosures of intellectual properties between the parties are governed by the NDA and are the exclusive property of the original disclosing party. During this time, Datum was paying GMT/Glassey/McNeil for their availability and for access to the intellectual properties described below. The NDA further provides as follows:

"WHEREAS, the parties hereto are engaged in discussions regarding the existing business relationship for the development and marketing of certified time and derivative products. During which discussions each party may disclose to the other certain information that may include, but is not limited to ideas, concepts, know-how, techniques, operations, programs, facilities,

computer systems, computer terminals, systems design, computer databases and software, communications networks, finances or financial information, product development plans, business directions, market plans, *prospective and existing customer names and other technical or business information* (collectively "Confidential Information")." (Emphasis added.)

- "2. Each party that receives Confidential Information under this Agreement shall...
- (b) use such Confidential Information *only for the purpose set forth above...*" (Emphasis added.)

The reference in Paragraph 2(b) of the NDA to the "purpose set forth above" clearly refers to "discussions regarding the existing business relationship for the development and marketing of certified time and related products". Thus, any information disclosed by either party pursuant to the NDA was so disclosed for the sole and exclusive purpose and use of furthering the discussions regarding the business relationship between GMT/Glassey/McNeil and Datum. There is no other permissible purpose under the NDA for use of any items disclosed by either party to the other, and any use of such items contrary to the enumerated purpose above is a breach of the NDA. Subsequent to the expiration of the Consulting Agreement, many intellectual property items of the type and character protected under the NDA were disclosed by GMT/Glassey/McNeil to Datum in compliance with the NDA. All these items remain proprietary to GMT/Glassey/McNeil, and to the extent Datum has used and persists in using these items for purposes other than set forth above, Datum is in breach of the NDA and subject to liability.

4. Disclosures of Technical Information to Datum Pursuant to the NDA.

In response to Datum's contention that the architectural design of the TTI and software components thereof were created by Mr. Robinson and are exclusively owned by Datum, GMT/Glassey/McNeil assert that these items are based entirely on their intellectual properties disclosed to Datum pursuant to the NDA. The basis for this contention follows.

Attached as EXHIBIT "C" is an excerpt from a Power Point presentation submitted to Datum by my clients on July __, 1998 (TODD, DO YOU HAVE AN EXACT DATE

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HERE?), detailing the items of intellectual property which GMT/Glassey/McNeil brought to the relationship with Datum. This document provides in pertinent part:

"Todd S. Glassey □ ... Creator of certified-time and document/event timestamping and the collapsed stack (API resident TCP/IP)."

Glassey's prior expertise in the creation of application programming interfaces ("API"s) in the context of certified time was thus known to Datum from the outset. It was also generally known that Datum's expertise in such matters was relatively minimal. Thus, although Mr. Robinson had asserted on numerous occasions to my clients that they were not being hired for engineering work, Datum repeatedly requested that they perform such work. E-mail correspondence attached as EXHIBIT "D" dated October 3, 1999 from David Thiede, head of the Datum E-commerce group, requests that GMT/Glassey/McNeil participate in the design of APIs for the TTI. In the spirit of working together to build a successful relationship, GMT/Glassey/McNeil performed the design work referred to in these E-mails and disclosed it to Datum pursuant to the NDA. To the extent that the APIs present in the TTI make use of this work product for purposes other than permitted under the NDA, Datum is again in breach of the NDA. Furthermore, GMT/Glassey/McNeil retains all intellectual property rights to this work product and the TTI to the extent that the TTI is derived from such work product.

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this work product for purposes other than permitted under the NDA, Datum is again in breach of the NDA. Furthermore, GMT/Glassey/McNeil retains all intellectual property rights to this work product and the TTI to the extent that the TTI is derived from such work product.

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E-mail correspondence attached as EXHIBIT "H" from Mr. Robinson to Glassey explicitly refers to GMT/Glassey/McNeil's involvement in the engineering of the Proxy Server; a component of the TTI. The engineering work on the Proxy Server was performed by GMT/Glassey/McNeil during October and November, 1998, as the E-mail correspondence from the Datum E-commerce group illustrates. Again, my clients performed this engineering work and disclosed same to Datum pursuant to the NDA. To the extent that the Proxy Server or other aspects of the TTI have made use of this work product for purposes other than permitted under the NDA, Datum is again in breach of the NDA. Furthermore, GMT/Glassey/McNeil retains all intellectual property rights to this work product and the TTI to the extent that the TTI is derived from such work product.

On January 4, 1999, GMT/Glassey/McNeil disclosed to Datum the Technical Standards Review attached as EXHIBIT "I" hereto. To the extent that the "Datum TTI" makes use of this work product for purposes other than permitted under the NDA, Datum is again in breach of the NDA. Furthermore, GMT/Glassey/McNeil retains all intellectual property rights to this work product and the TTI to the extent that the TTI is derived from such work product.

5. The "Datum TTI".

On December 22, 1998, Mr. Robinson produced for GMT/Glassey/McNeil a two-page document attached hereto as EXHIBIT "J" which purports to be an architecture of the TTI developed exclusively by Mr. Robinson. This document was produced in light of growing concern that the Datum E-commerce engineering team had been largely ineffective and had failed to produce anything of value with respect to the TTI throughout the second half of 1998, and in response to a demand by GMT/Glassey/McNeil that such work product be disclosed. GMT/Glassey/McNeil assert that this document is based entirely on their intellectual properties referred to above. GMT/Glassey/McNeil assert that several layers of additional documentation would be necessary or required to create any concept of utility with respect to the "Datum TTI" under Mr. Robinson's document, and that at the time this document was created, the Public Key Infrastructure ("PKI") referred to therein did not actually exist. It strongly appears that all existing component and architectural intellectual properties related to a Trusted Timing Infrastructure disclosed between the parties and otherwise created as a result of their relationship belong to my clients.

6. Supporting Correspondence.

In a letter from Mr. Robinson to Glassey and Michael King dated February 26, 1999, attached hereto as EXHIBIT "K", Mr. Robinson implies (at minimum) that the ownership of the TTI and its component intellectual properties is divided between Datum and GMT/Glassey/McNeil. Mr. Robinson proposed a draft Royalty Agreement for my clients' review enclosed with such letter, a copy of which is attached hereto as EXHIBIT "L". Mr. Robinson states in his letter that in consideration for royalties to be paid to GMT:

"GMT/Swsol acknowledges that the Datum TTI and any derivative timing infrastructures developed solely or jointly by Datum and GMT/Swsol during the e-commerce development period 5 May 1999 to 31 December 1999; is the intellectual property of Datum, Inc."

In the draft Royalty Agreement, Paragraph 2(a) provides as follows:

- "(a) Ownership of Rights. Datum shall own all right, title and interest...relating to any and all inventions...works of authorship, designs, know-how, ideas and information made or conceived or reduced to practice, in whole or in part, by GMT or GMT's employees

or subcontractors in the course of performing services for Datum, *whether under the express terms of the Consulting Agreement or otherwise...*" (Emphasis added.)

The primary reason that GMT/Glassey/McNeil declined to execute the Royalty Agreement was that the above term contravened the original intent and agreement between the parties; i.e., that ownership of all intellectual properties which were brought to the relationship at the outset would remain with their original owner. My clients did not enter into a relationship with Datum for the purpose of wholesaling off their core technical intellectual properties, but for performing marketing and business development work only.

7. Disclosure of the TTI2 and Information Regarding Digital Pursuant to the NDA.

With respect to your position taken in correspondence dated May 21, 1999 regarding the TTI2, please be advised that this architecture was created by my clients as an alternative solution for the distribution of secure time. My clients created this system in the spirit of working with Datum to build the relationship, without any compensation therefor, and in the interest of ultimately producing a better product. The TTI2 is not derivative from the TTI in any sense; the only similarity between the two architectures is that both of them distribute secure time. In any event, GMT/Glassey/McNeil assert full rights of ownership with respect to both architectures.

In the same letter, you assert that my contention regarding Glassey's rights to compensation by Datum for its acquisition of Digital is frivolous. Perhaps you do not understand the nature and basis of this claim. Glassey disclosed business information to Datum (through Mr. Stone) regarding a potential purchase of Digital by Datum, in July, 1998 (but subsequent to the expiration of the Consulting Agreement) for the purposes of exploring whether the acquisition of Digital by Datum would be useful to the relationship between GMT/Glassey/McNeil and Datum. At the time of disclosure, Glassey indicated to Mr. Stone that the disclosure was being made on the condition that Glassey be compensated in the event that Datum used the information for its own purposes. Mr. Stone indicated that he would pass this along through the Datum managerial hierarchy.

The NDA's provision for "ideas, concepts,...business directions,... and other...business information" would certainly apply to such disclosure. For Datum now to acquire Digital for Datum's own benefit, and without benefit to GMT/Glassey/McNeil, is

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June 24, 1999

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clearly for a purpose other than set forth in the NDA, and any such acquisition will result in Datum's breach of NDA by its use of Confidential Information for purposes other than enumerated therein.

8. Damages and Proposed Settlement.

My clients have sustained grievous monetary and reputational harm as a result of Datum's apparent misappropriation of their intellectual properties and breaches of the NDA. The intellectual properties disclosed to Datum pursuant to the NDA have a demonstrable market value and can be used to create products that are capable of generating revenue in the many millions of dollars. My clients will look to Datum for relief in the event that Datum attempts to make any use whatsoever of the TTI and other intellectual properties referred to herein, unless a settlement can be structured using the following proposed demands as a basis therefor:

1. In consideration for a full release with respect to any of the intellectual properties referred to herein, Datum shall pay to my clients the sum of Three Million Dollars (\$3,000,000.00), one-half (½) payable in cash on the execution of appropriate settlement documents, and the other one-half (½) payable in four (4) equal installments over a one (1) year period. My clients would be willing to execute non-competition provisions (TODD, WHAT SHOULD THE SCOPE OF THIS BE? LET'S TALK HERE.) and to execute confidentiality provisions with respect to the entire matter.
2. Datum shall agree to refrain from disparaging my clients in the technology marketplace or otherwise. My clients have learned that since the date of your last correspondence, Datum has misrepresented to Compaq that my clients had failed to produce certain deliverables for Datum which in fact they were never requested to produce. In consideration for a release of all claims related to disparagement of my clients, Datum shall pay to my clients the sum of Five Hundred Thousand Dollars (\$500,000.00) in cash upon the execution of appropriate settlement documents.

Very truly yours,

JASON R. BOOK, Esq.

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June 24, 1999
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JRB:jrb
Enclosures

June 29, 1999

John F. Cannon, Esq.
STRADLING YOCCA CARLSON & RAUTH
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660-6441

Via Facsimile and Federal Express

**Re: Glassey McNeil Technologies, Inc. ("GMT") and GMT
Principals ("Glassey/McNeil"); Datum Corporation ("Datum");
Ownership of Intellectual Property; Breaches of Nondisclosure
Agreement by Datum; Other Damages.**

Dear Mr. Cannon:

The following is my response to your letter dated May 21, 1999, setting forth the detailed positions of GMT and Glassey/McNeil with respect to certain disputed issues with Datum. All capitalized terms shall have the same meaning herein as in my letter dated May 14, 1999. I agree with you that a meeting between counsel is, in all likelihood, the most appropriate next step. Please give me your feedback to this correspondence as soon as possible and we can coordinate such a meeting.

1. Digital and the Co-Inventor Agreement.

With respect to Datum's concerns regarding the Co-Inventor Agreement between Glassey/McNeil and Digital, Glassey/McNeil contend that they: (1) disclosed to Datum the existence of this project with Digital from its outset; (2) offered Datum the opportunity to participate in the project; and (3) Datum repeatedly refused this opportunity on the grounds that the subject matter of the Co-Inventor Agreement had nothing to do with Datum's core business. Numerous conversations regarding Glassey/McNeil's project with Digital took place between Glassey and Datum executives in October, 1998, including conversations with

David Robinson and Mitch Stone, who simply indicated that Datum was not interested in participating.

Furthermore, the subject matter of the Co-Inventor Agreement is not based upon or otherwise uses any Datum intellectual property. The genesis of this project is traceable back to early 1997; well before the relationship between Datum and GMT/Glassey/McNeil ever began. GMT/Glassey/McNeil had been in negotiations with Digital regarding the Co-Inventor Agreement for an extended period of time and the development work which related to the patent filed by Digital was performed prior to the existence of the Consulting Agreement. In light of the above, GMT/Glassey/McNeil assert that the existence of the Co-Inventor Agreement should come as no surprise to Datum and Datum has no rights to any of the intellectual properties related thereto.

2. Background on the Relationship with Datum and the Consulting Agreement.

Aside from the above issues, Datum contends that due to its continual payment of consideration to GMT/Glassey/McNeil during the period beginning July 5, 1998 and ending December 31, 1998, GMT/Glassey/McNeil were operating under the terms of the Consulting Agreement during that time, although the Consulting Agreement had expired by its terms on July 4, 1998. As a result, everything GMT/Glassey/McNeil disclosed to Datum from July 5, 1998 until December 31, 1998 is Datum's property. This contention is fraught with inconsistencies. To clarify the matter, some background on the existence of the Consulting Agreement and the true intent behind the relationship is appropriate.

After having first approached Datum in February, 1998 regarding his personal and commercial E-mail and Document Timestamping Gateway products, Glassey engaged in an ongoing dialogue with Datum executives including David Robinson, Mitch Stone, and Davey Briggs regarding the potential for partnering in a business opportunity involving development of a secured timebase solution for E-commerce. The vision for such a solution was clearly Glassey's and that of no other person or entity. Implementation of this solution would involve Glassey bringing Datum into the E-commerce arena, a market segment totally foreign to Datum's core competence of industrial and instrumentation grade timing sources.

Datum's response to this vision, through Mr. Robinson, was that Datum wished to retain Glassey to perform market development and business development work geared to

bringing Datum into the E-commerce marketplace. As per a meeting with Erik van der Kaay, Datum's President, Glassey was to report to Mr. Stone as Datum's formal representative. Mr. Stone would sign invoices and be the intermediary between Glassey and Datum. In early May, 1998, Datum indicated a desire to memorialize this arrangement on paper, and through Mr. Stone presented the Consulting Agreement to Glassey.

Glassey's response upon reviewing the Consulting Agreement was that it did not accurately reflect the terms of the relationship with Datum as previously agreed between the parties. Glassey was expecting Datum to present a marketing-type contract, and was taken aback by the nature of the Consulting Agreement and its provisions for conveyance of intellectual property. Glassey voiced this concern to Mr. Stone, who replied that: (1) this was the only contract that he had available; (2) signing this contract was the only way to get the agreed-upon retainer payments to GMT/Glassey/McNeil started; (3) Mr. Robinson was in Europe for a one-month period and it would be impossible to produce another contract without Mr. Robinson's review and signature; (4) since GMT/Glassey/McNeil was bringing its marketing contacts and customers to Datum, these relationships were the only intellectual properties which might be inadvertently transferred to Datum via the Consulting Agreement and to protect against this, Datum and GMT/Glassey/McNeil should execute the standard Datum Nondisclosure Agreement which makes explicit reference to relationships as protected property; (5) since the term of the agreement was for only sixty (60) days, and since GMT/Glassey/McNeil were reporting to Mr. Stone and performing only marketing functions, there would be no risk of conveyance of technical intellectual properties to Datum; (6) immediately upon Mr. Robinson's return, the Consulting Agreement would be superceded in its entirety by the terms of an agreement between GMT/Glassey/McNeil and Datum which accurately memorialized the verbal agreement between the parties; and (7) to further clarify the situation at the outset, Mr. Stone suggested that Glassey identify all the intellectual properties with which GMT/Glassey/McNeil brought to the Datum relationship, which was done and discussed with Mr. Stone in May, 1998.

During the term of the Consulting Agreement, GMT/Glassey/McNeil performed marketing and business development services of the same or similar character as the report which was originally enclosed with your correspondence of April 13, 1999, and performed no services of a technical nature whatsoever. Immediately upon the expiration of the term of the Consulting Agreement, Glassey approached Datum through Mr. Robinson and attempted to get the correct terms of the agreement between the parties reduced to writing.

Repeatedly throughout late 1998, Mr. Robinson acknowledged that this needed to be done, but assured Glassey not to worry about the issue since the terms of the NDA (attached hereto as EXHIBIT "A") would protect both Datum and GMT/Glassey/McNeil. The terms of the true agreement between the parties were never entirely reduced to writing, despite persistent efforts by my clients.

3. The Consulting Agreement and the NDA.

The above history clarifies some peculiarities regarding the Consulting Agreement and the relationship in general which would otherwise defy explanation. To begin with, you will note that Paragraph 1 of the Consulting Agreement provides:

"This agreement is entered into...for the purpose of securing technical consulting services as detailed in the STATEMENT OF WORK attached."

No attached statement of work ever existed in connection with the Consulting Agreement. This was because GMT/Glassey/McNeil were not hired to perform technical engineering services, contrary to the letter and spirit of the Consulting Agreement. As such, a statement of work would have rendered the Consulting Agreement even more meaningless.

The second peculiarity is the mere existence of the NDA. If the relationship between the parties was a true consulting relationship under the terms of the Consulting Agreement, the existence of the NDA would seem superfluous and inappropriate.

We reiterate that the consultancy period was confined to the term of sixty (60) days under the Consulting Agreement, nothing more. Paragraph 2 of the Consulting Agreement provides:

"The period of this agreement is 4th May 1998 to 4th July 1998."

Paragraph 9.2 (incorrectly set forth as Paragraph 9.6) of the Consulting Agreement further provides:

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- (b) use such Confidential Information *only for the purpose set forth above...*" (Emphasis added.)

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Attached as EXHIBIT "C" is an excerpt from a Power Point® presentation submitted to Datum by my clients on July 7, 1998, detailing the items of intellectual property which GMT/Glassey/McNeil brought to the relationship with Datum. This document provides in pertinent part:

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On January 4, 1999, GMT/Glassey/McNeil disclosed to Datum the Technical Standards Review attached as EXHIBIT "I" hereto. To the extent that the "Datum TTI" makes use of this work product for purposes other than permitted under the NDA, Datum is again in breach of the NDA. Furthermore, GMT/Glassey/McNeil retains all intellectual property rights to this work product and the TTI to the extent that the TTI is derived from such work product.

5. The "Datum TTI".

On December 22, 1998, Mr. Robinson produced for GMT/Glassey/McNeil a two-page document attached hereto as EXHIBIT "J" which purports to be an architecture of the TTI developed exclusively by Mr. Robinson. This document was produced in light of growing concern that the Datum E-commerce engineering team had been largely ineffective and had failed to produce anything of value with respect to the TTI throughout the second half of 1998, and in response to a demand by GMT/Glassey/McNeil that such work product be disclosed. GMT/Glassey/McNeil assert that this document is based entirely on their intellectual properties referred to above. GMT/Glassey/McNeil assert that several layers of additional documentation would be necessary or required to create any concept of utility with respect to the "Datum TTI" under Mr. Robinson's document, and that at the time this document was created, the Public Key Infrastructure ("PKI") referred to therein did not actually exist. It strongly appears that all existing component and architectural intellectual properties related to a Trusted Timing Infrastructure disclosed between the parties and otherwise created as a result of their relationship belong to my clients.

6. Supporting Correspondence.

In a letter from Mr. Robinson to Glassey and Michael King dated February 26, 1999, attached hereto as EXHIBIT "K", Mr. Robinson implies (at minimum) that the ownership of the TTI and its component intellectual properties is divided between Datum and GMT/Glassey/McNeil. Mr. Robinson proposed a draft Royalty Agreement for my clients' review enclosed with such letter, a copy of which is attached hereto as EXHIBIT "L". Mr. Robinson states in his letter that in consideration for royalties to be paid to GMT:

"GMT/Swsol acknowledges that the Datum TTI and any derivative timing infrastructures developed solely or jointly by Datum and GMT/Swsol during the e-commerce development period 5 May 1999 to 31 December 1999; is the intellectual property of Datum, Inc."

In the draft Royalty Agreement, Paragraph 2(a) provides as follows:

"(a) Ownership of Rights. Datum shall own all right, title and interest...relating to any and all inventions...works of authorship,

designs, know-how, ideas and information made or conceived or reduced to practice, in whole or in part, by GMT or GMT's employees or subcontractors in the course of performing services for Datum, *whether under the express terms of the Consulting Agreement or otherwise...*" (Emphasis added.)

The primary reason that GMT/Glassey/McNeil declined to execute the Royalty Agreement was that the above term contravened the original intent and agreement between the parties; i.e., that ownership of all intellectual properties which were brought to the relationship at the outset would remain with their original owner. My clients did not enter into a relationship with Datum for the purpose of wholesaling off their core technical intellectual properties, but for performing marketing and business development work only.

7. Disclosure of the TTI2 and Information Regarding Digital Pursuant to the NDA.

With respect to your position taken in correspondence dated May 21, 1999 regarding the TTI2, please be advised that this architecture was created by my clients as an alternative solution for the distribution of secure time. My clients created this system in the spirit of working with Datum to build the relationship, without any compensation therefor, and in the interest of ultimately producing a better product. The TTI2 is not derivative from the TTI in any sense; the only similarity between the two architectures is that both of them distribute secure time. In any event, GMT/Glassey/McNeil assert full rights of ownership with respect to both architectures.

In the same letter, you assert that my contention regarding Glassey's rights to compensation by Datum for its acquisition of Digital is frivolous. Perhaps you do not understand the nature and basis of this claim. Glassey disclosed business information to Datum (through Mr. Stone) regarding a potential purchase of Digital by Datum, in July, 1998 (but subsequent to the expiration of the Consulting Agreement) for the purposes of exploring whether the acquisition of Digital by Datum would be useful to the relationship between GMT/Glassey/McNeil and Datum. At the time of disclosure, Glassey indicated to Mr. Stone that the disclosure was being made on the condition that Glassey be compensated under industry standard "Lehman" terms in the event that Datum used the information for its own purposes. Mr. Stone indicated that he would pass this along through the Datum managerial hierarchy.

The NDA's provision for "ideas, concepts,...business directions,... and other...business information" would certainly apply to such disclosure. For Datum now to acquire Digital for Datum's own benefit, and without benefit to GMT/Glassey/McNeil, is clearly for a purpose other than set forth in the NDA, and any such acquisition will result in Datum's breach of NDA by its use of Confidential Information for purposes other than enumerated therein.

8. Damages and Proposed Settlement.

My clients have sustained grievous monetary and reputational harm as a result of Datum's apparent misappropriation of their intellectual properties and breaches of the NDA. The intellectual properties disclosed to Datum pursuant to the NDA have a demonstrable market value and can be used to create products that are capable of generating revenue in the many millions of dollars. My clients will look to Datum for relief in the event that Datum attempts to make any use whatsoever of the TTI and other intellectual properties referred to herein, unless a settlement can be structured using the following proposed demands as a basis therefor:

- A. In consideration for a full release with respect to any of the intellectual properties referred to herein, Datum shall pay to my clients the sum of Three Million Dollars (\$3,000,000.00), one-half (½) payable in cash on the execution of appropriate settlement documents, and the other one-half (½) payable in four (4) equal installments over a one (1) year period. My clients would be willing to execute non-competition provisions as to production of similar products and to execute confidentiality provisions with respect to the entire matter.
- B. Datum shall agree to refrain from disparaging my clients in the technology marketplace or otherwise. My clients have learned that since the date of your last correspondence, Datum has misrepresented a number of facts to certain entities throughout the industry. These facts include the nature of Datum's relationship with GMT/Glassey/McNeil, the origin of the intellectual properties relating to Datum's E-commerce efforts, and the competence of GMT/Glassey/McNeil as a design firm. Recipients of such misrepresentation may include, and are not necessarily limited to, Cygnacom, West, Differential, Chrysalis-ITS, Versign, RSA, and Compaq. My clients contend that these

John F. Cannon, Esq.
June 29, 1999
Page 12

misrepresentations may have resulted in the cessation of their contractual relationship with Differential. In consideration for a release of all claims related to disparagement of my clients and interference with their business relationships, Datum shall pay to my clients the sum of Five Hundred Thousand Dollars (\$500,000.00) in cash upon the execution of appropriate settlement documents.

I look forward to your prompt attention to this matter and scheduling of the meeting between counsel referred to above by no later than July 9, 1999. In the event that such a meeting is not forthcoming, my clients are inclined to promptly pursue all legal rights and remedies against Datum as set forth herein.

Very truly yours,

JASON R. BOOK, Esq.

JRB:jrb

Enclosures: EXHIBITS "A" through "L".

August 3, 1999

John F. Cannon, Esq.
STRADLING YOCCA CARLSON & RAUTH
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660-6441

Via Facsimile
and U.S. Mail

**Re: Glassey McNeil Technologies, Inc. ("GMT") and GMT
Principals ("Glassey/McNeil"); David C. Robinson; Ownership
of Intellectual Property; Breaches of Nondisclosure Agreement
by Robinson; Other Damages.**

Dear John:

At our meeting on Monday, July 26, 1999, I believe you indicated that Mr. David C. Robinson, former President of Datum Corporation's Bancomm-Timing Division, is a client of your firm. As a result, I have addressed this correspondence to you and request that you kindly bring the matters described herein to the attention of Mr. Robinson. In the event that I am mistaken as to your firm's representation of Mr. Robinson individually, please let me know. All capitalized terms herein, unless otherwise defined, shall have the same meaning as in my letter to you of June 29, 1999.

GMT/Glassey/McNeil assert that Mr. Robinson is personally liable for repeated breaches of the Nondisclosure Agreement he executed between Datum and GMT dated November 24, 1998, which was expressly made retroactive to all exchanges of intellectual properties between Datum and GMT since April, 1998 (the "NDA"). Our position is that Mr. Robinson has committed such breaches both (1) as an agent of Datum, and (2) since his departure from Datum. In our opinion, any breaches committed by Mr. Robinson while he was with Datum are being appropriately addressed in the context of our ongoing efforts to resolve the issues between GMT/Glassey/Mc Neil and Datum. However, Mr. Robinson's actions since his departure from Datum are cause for additional concern.

It is our understanding that Mr. Robinson recently left Datum and became President of Synchron, a new division of General Atomics Corporation ("GA"). I presented a copy of the Synchron web page to you at our meeting on July 26, 1999. The page can be viewed on the Internet by accessing the appropriate hyperlink at <http://www.generalatomics.com>. The business of Synchron, as stated on the web page, is "to field a single global network of trusted time to secure E-business transactions and documents".

When this page was brought to my attention, I telephoned Mr. James R. Edwards, Esq., General Counsel for GA. Mr. Edwards informed me that Mr. Robinson had presented to the GA Board of Directors a business plan for the distribution of secure time via the Internet. GA recently created Synchron as a result of Mr. Robinson's hiring by GA and in anticipation of Synchron's carrying out the business plan which is outlined on the web page and which has been presented to the GA Board of Directors by Mr. Robinson.

As I know you are aware, the NDA provides as follows:

"WHEREAS, the parties hereto are engaged in discussions regarding the existing business relationship for the development and marketing of certified time and derivative products. During which discussions each party may disclose to the other certain information that may include, but is not limited to ideas, concepts, know-how, techniques, operations, programs, facilities, computer systems, computer terminals, systems design, computer databases and software, communications networks, finances or financial information, product development plans, business directions, market plans, prospective and existing customer names and other technical or business information (collectively "Confidential Information")."

"2. Each party that receives Confidential Information under this Agreement shall...

(b) use such Confidential Information *only for the purpose set forth above...*" (Emphasis added.)

The reference in Paragraph 2(b) of the NDA to the "purpose set forth above" clearly refers to "discussions regarding the existing business relationship for the development and marketing of certified time and related products". Thus, any information disclosed by either

party pursuant to the NDA was so disclosed for the sole and exclusive purpose and use of furthering the discussions regarding the business relationship between GMT/Glassey/McNeil and Datum. There is no other permissible purpose under the NDA for use of any items disclosed pursuant to the NDA, and any use of such items contrary to the enumerated purpose above is a breach of the NDA.

As detailed in my letter to you of June 29, 1999, many disclosures regarding secured time (a.k.a., "certified time") pursuant to the NDA were made throughout 1998 by GMT/Glassey/McNeil directly to Mr. Robinson (on behalf of Datum). Such disclosures were made pursuant to (as Paragraph 10 of the NDA provides):

"... a verbal agreement of the same terms and conditions that arose between Todd S. Glassey, GMT and David Robinson, Datum — Bancomm Timing when GMT was retained by Datum in April of 1998 to investigate the common market/product potential of a secure timebase for e-commerce."

Consequently, it appears almost certain that Mr. Robinson was directly exposed or had complete access to the information in question. Our position is that by presenting concepts related to certified time to the GA Board of Directors (and any other third parties), Mr. Robinson has made use of such information for purposes other than permitted by the NDA. Thus, Mr. Robinson is in continuing breach of the NDA, and subject to liability.

All disclosed items remain proprietary to GMT/Glassey/McNeil, who contend that prior to Mr. Robinson's exposure to this information, he had never been exposed to the concept of certified time. As I indicated in my last correspondence, Glassey first approached Datum in February, 1998 regarding his personal and commercial E-mail and Document Timestamping Gateway products. Glassey engaged in an ongoing dialogue with Datum executives (including Mr. Robinson) regarding the potential for partnering in a business opportunity involving development of a secured timebase solution for E-commerce. The vision for such a solution was clearly Glassey's and that of no other person or entity. Implementation of this solution would involve Glassey bringing Datum into the E-commerce arena, a market segment totally foreign to Datum's core competence of industrial and instrumentation grade timing sources.

On December 22, 1998, pursuant to the effort to develop such a solution, Mr. Robinson produced for GMT/Glassey/McNeil a two-page document which purports to be an architecture of the TTI (attached to my prior correspondence). This document was produced in light of growing concern that the Datum E-commerce engineering team had been largely ineffective and had failed to produce anything of value with respect to the TTI throughout the second half of 1998, and in response to a demand by GMT/Glassey/McNeil that such work product be disclosed. We understand that Mr. Robinson contends he exclusively developed this architecture. GMT/Glassey/McNeil assert that this document is based entirely on their intellectual properties.

In a letter from Mr. Robinson to Glassey and Michael S. King dated February 26, 1999 (attached to my prior correspondence), Mr. Robinson implies (at minimum) that the ownership of the TTI and its component intellectual properties is divided between Datum and GMT/Glassey/McNeil. Mr. Robinson proposed a draft Royalty Agreement for my clients' review enclosed with such letter (attached to my prior correspondence). Mr. Robinson states in his letter that in consideration for royalties to be paid to GMT:

"GMT/Swsol acknowledges that the Datum TTI and any derivative timing infrastructures developed solely or jointly by Datum and GMT/Swsol during the e-commerce development period 5 May 1999 to 31 December 1999; is the intellectual property of Datum, Inc."

In the draft Royalty Agreement, Paragraph 2(a) provides as follows:

"(a) Ownership of Rights. Datum shall own all right, title and interest...relating to any and all inventions...works of authorship, designs, know-how, ideas and information made or conceived or reduced to practice, in whole or in part, by GMT or GMT's employees or subcontractors in the course of performing services for Datum, *whether under the express terms of the Consulting Agreement or otherwise...*" (Emphasis added.)

As you know, Datum was unsuccessful in attempting to secure ownership of these intellectual property rights in accord with the above language. In light of the events, correspondence, and meetings of the last several weeks, it appears almost beyond dispute that

John F. Cannon, Esq.
August 3, 1999
Page 5

Mr. Robinson individually does not have any rights whatsoever in any of the intellectual properties relating to certified time.

It has come to my attention that Mr. Robinson, on behalf of GA, is engaged in negotiations with certain former agents of Coastek Infosys, Inc. ("Coastek"), a corporation now entering receivership, to purchase certain intellectual properties from Coastek which are to be used in furthering the business plan of GA and Synchron. Our position is that these mere negotiations constitute a breach of the NDA to the extent that they make indirect use of the intellectual properties owned by my clients. We demand that Mr. Robinson cease and desist from all such negotiations with Coastek. If such negotiations are not halted immediately, all available rights and remedies will be pursued by my clients against Mr. Robinson, including injunctive relief.

I thank you for your attention to and assistance with this matter.

Very truly yours,

JASON R. BOOK, Esq.

JRB:jrb

cc: James R. Edwards, Esq.
Phillip R. Zender, Esq.
Todd S. Glassey

August 24, 1999

John F. Cannon, Esq.

Via Facsimile
STRADLING YOCCA
CARLSON &
RAUTH

and U.S. Mail

660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660-6441

**Re: Glassey McNeil Technologies, Inc. ("GMT") and
GMT
Principals ("Glassey/McNeil"); Datum Corporation ("Datum");
Ownership of Intellectual Property; Breaches of Nondisclosure
Agreement by Datum; Rights Relative to the Co-Inventor
Agreement Between Glassey/McNeil and Digital Delivery, Inc.
("Digital"); Other Damages.**

Dear John:

Thank you for your letter dated August 20, 1999. I believe that we are getting closer to resolving the above-referenced disputes and I appreciate your continued efforts directed toward resolution. My comments on Datum's settlement proposal follow.

It appears the primary bone of contention between GMT/Glassey/McNeil and Datum has now become the Co-Inventor Agreement. As I have indicated to you in recent E-mail correspondence, our previous demands have not addressed the Co-Inventor Agreement. This is due to the simple fact that Datum acquired Digital on or about July 29, 1999; subsequent to our last written demand and to our meeting in person on July 26, 1999. Prior to the acquisition of Digital by Datum, we were in negotiations directly with

Digital (through its counsel) with regard to the Co-Inventor Agreement. Our previous correspondence has only addressed the Co-Inventor Agreement to the extent we have asserted that Datum has previously held no interest whatsoever in this Agreement or any of the subject matter related thereto. Thus, my letter to you of June 29, 1999 provided as follows:

"Glassey/McNeil contend that they: (1) disclosed to Datum the existence of this project with Digital from its outset; (2) offered Datum the opportunity to participate in the project; and (3) Datum repeatedly refused this opportunity on the grounds that the subject matter of the Co-Inventor Agreement had nothing to do with Datum's core business. Numerous conversations regarding Glassey/McNeil's project with Digital took place between Glassey and Datum executives in October, 1998, including conversations with David Robinson and Mitch Stone, who simply indicated that Datum was not interested in participating.

Furthermore, the subject matter of the Co-Inventor Agreement is not based upon or otherwise uses any Datum intellectual property. The genesis of this project is traceable back to early 1997; well before the relationship between Datum and GMT/Glassey/McNeil ever began. GMT/Glassey/McNeil had been in negotiations with Digital regarding the Co-Inventor Agreement for an extended period of time and the development work which related to the patent filed by Digital was performed prior to the existence of the Consulting Agreement. In light of the above, GMT/Glassey/McNeil assert that the existence of the Co-Inventor Agreement should come as no surprise to Datum and Datum has no rights to any of the intellectual properties related thereto."

In light of the above, we vigorously dispute the allegations set forth in Paragraphs 24 through 26 of Datum's complaint. Although Datum (through its acquisition of Digital) may have acquired all rights held by Digital under the Co-Inventor Agreement, we do not believe that Datum can attack or set aside the Co-Inventor Agreement on any reasonable grounds. It does not appear that any reasonable characterization of the relationship between GMT/Glassey/McNeil and Datum during the period in question could be found to preclude GMT/Glassey/McNeil from engaging in this project with Digital; especially in the event that Datum was put on notice of the project by our clients.

It is also abundantly clear that Glassey/McNeil are owed compensation under the terms of the Co-Inventor Agreement in consideration for their "ideas, inventions, proprietary information and contributions to the Controlling Access Patent". This compensation is to be determined (in part) with consideration of the "market potential" for the technology which is the subject matter of the Co-Inventor Agreement and for related products. Some clue as to market valuation can be gleaned by the terms of the Digital acquisition. In addition, Datum has evidenced a plan (through its Web Site), to carry forward with GPS Phase II technology on a very broad scale. Obviously, the market value of this technology, and of products based thereon, is quite considerable.

In addition, the Co-Inventor Agreement provides that Glassey/McNeil shall have unrestricted rights to carry forward with GPS Phase II technology and derivatives thereof. The Agreement further provides that in the event the parties cannot resolve the issue of compensation due and owing Glassey/McNeil by October 26, 1999, "each party shall have rights as a co-inventor to fully exploit the Controlling Access Patent without accounting or control by the other".

Finally, I point out that the Co-Inventor Agreement expressly forbids the assignment by Digital of any obligations thereunder.

As a result, Datum's settlement proposal is not acceptable in its present form due to its co-mingling of issues regarding the Co-Inventor Agreement with issues which were fully addressed in my correspondence to you of June 29, 1999. In the event that Datum wishes to have exclusive rights to the technology developed under the Co-Inventor Agreement, this would require the payment of additional consideration (beyond that demanded herein) to Glassey/McNeil for the loss of rights which we believe they possess.

In light of the above, please consider the following counter-proposal. This counter-proposal shall track the numbering sequence of your letter dated August 20, 1999:

As to consideration received by Datum --

1. This term is acceptable with respect to all matters except for any dispute relating to the Co-Inventor Agreement;
2. This term is acceptable with respect to all matters except for any properties relating to the Co-Inventor Agreement;

3. This term is acceptable with respect to all matters except the Co-Inventor Agreement;
4. This term requires some clarification. If the intent of your language is to restrict our clients from competing with respect to the particular technologies at issue, then I suspect we are close to agreement;
5. This term is acceptable;
6. This term is acceptable;
7. This term is acceptable.

As to consideration received by our clients, you will recall that at our meeting of July 26, 1999, we requested that any proposal be structured (if possible) in the alternative. Specifically, if circumstances were such that a royalty stream or other continuing relationship was not mutually desirable, a lump-sum payment might be considered in the alternative. I believe (and given recent events, you might be inclined to agree) that a royalty structure is no longer prudent. In light of the relationships between the parties, such a structure may only engender further hostility, dispute, and potential litigation.

As a result, we propose the following:

- A. A lump-sum payment in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000.00), payable to GMT/Glassey/McNeil in consideration for settlement of all issues in dispute between the parties other than those related to the Co-Inventor Agreement. This amount would be payable upon the execution of appropriate settlement documents.
- B. A lump-sum payment in the amount of Two Million Dollars (\$2,000,000.00), payable to Glassey/McNeil in compensation for services performed under the Co-Inventor Agreement relating to the development of the Controlling Access Patent. It would appear this amount is reasonable in light of the market value considerations discussed above. This amount would be payable upon the execution of appropriate settlement documents.

John F. Cannon, Esq.
August 24, 1999
Page 5

- C. A ratification of the Co-Inventor Agreement as it currently exists, memorializing all terms contained therein in their current form and substance, so as to confirm the respective rights of Datum and GMT/Glassey/McNeil to the intellectual properties discussed therein.

This correspondence, as well as all previous letters and other communications with regard to these matters, including (but not limited to) all E-mail correspondence and my letters to you of May 14, 1999 and June 29, 1999, are discussions of and offers in compromise of disputed matters and as such are protected by California Evidence Code § 1152, et. seq. Under no circumstances does GMT/Glassey/McNeil waive any argument, position, claim or defense by or through the contents of any such correspondence.

Please let me know your comments with regard to the foregoing at your earliest convenience.

Very truly yours,

JASON R. BOOK, Esq.

JRB:jrb

cc: Todd S. Glassey

August 24, 1999

John F. Cannon, Esq.
STRADLING YOCCA CARLSON & RAUTH
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660-6441

Via Facsimile
and U.S. Mail

**Re: Glassey McNeil Technologies, Inc. ("GMT") and GMT
Principals ("Glassey/McNeil"); Datum Corporation ("Datum");
Ownership of Intellectual Property; Breaches of Nondisclosure
Agreement by Datum; Rights Relative to the Co-Inventor
Agreement Between Glassey/McNeil and Digital Delivery, Inc.
("Digital"); Other Damages.**

Dear John:

Thank you for your letter dated August 20, 1999. I believe that we are getting closer to resolving the above-referenced disputes and I appreciate your continued efforts directed toward resolution. My comments on Datum's settlement proposal follow.

It appears that the Co-Inventor Agreement has now become the primary bone of contention between GMT/Glassey/McNeil and Datum. As I have indicated to you in recent E-mail correspondence, our previous demands have not addressed the Co-Inventor Agreement. This is due to the simple fact that Datum acquired Digital on or about July 29, 1999; subsequent to our last written demand and to our meeting in person on July 26, 1999. Prior to the acquisition of Digital by Datum, we were in negotiations directly with Digital (through its counsel) with regard to the Co-Inventor Agreement. Our previous correspondence has only addressed the Co-Inventor Agreement to the extent we have asserted that Datum has previously held no interest whatsoever in this Agreement or any of the subject matter related thereto. Thus, my letter to you of June 29, 1999 provided as follows:

"Glassey/McNeil contend that they: (1) disclosed to Datum the existence of this project with Digital from its outset; (2) offered Datum the opportunity to participate in the project; and (3) Datum repeatedly refused this opportunity on the grounds that the subject matter of the Co-Inventor Agreement had nothing to do with Datum's core business. Numerous conversations regarding Glassey/McNeil's project with Digital took place between Glassey and Datum executives in October, 1998, including conversations with David Robinson and Mitch Stone, who simply indicated that Datum was not interested in participating.

Furthermore, the subject matter of the Co-Inventor Agreement is not based upon or otherwise uses any Datum intellectual property. The genesis of this project is traceable back to early 1997; well before the relationship between Datum and GMT/Glassey/McNeil ever began. GMT/Glassey/McNeil had been in negotiations with Digital regarding the Co-Inventor Agreement for an extended period of time and the development work which related to the patent filed by Digital was performed prior to the existence of the Consulting Agreement. In light of the above, GMT/Glassey/McNeil assert that the existence of the Co-Inventor Agreement should come as no surprise to Datum and Datum has no rights to any of the intellectual properties related thereto."

In light of the above, we vigorously dispute the allegations set forth in Paragraphs 24 through 26 of Datum's complaint. Although Datum (through its acquisition of Digital) may have acquired all rights held by Digital under the Co-Inventor Agreement, we do not believe that Datum can attack or set aside the Co-Inventor Agreement on any reasonable grounds. It does not appear that any reasonable characterization of the relationship between GMT/Glassey/McNeil and Datum during the period in question could be found to preclude GMT/Glassey/McNeil from engaging in this project with Digital; especially in the event that Datum was put on notice of the project by our clients.

It is also abundantly clear that Glassey/McNeil are owed compensation under the terms of the Co-Inventor Agreement in consideration for their "ideas, inventions, proprietary information and contributions to the Controlling Access Patent". This compensation is to be determined (in part) with consideration of the "market potential" for the technology which is the subject matter of the Co-Inventor Agreement and for related products. Some clue as

to market valuation can be gleaned by the terms of the Digital acquisition. In addition, Datum has evidenced a plan (through its Web Site), to carry forward with GPS Phase II technology on a very broad scale. Obviously, the market value of this technology, and of products based thereon, is quite considerable.

In addition, the Co-Inventor Agreement provides that Glassey/McNeil shall have unrestricted rights to carry forward with GPS Phase II technology and derivatives thereof. The Agreement further provides that in the event the parties cannot resolve the issue of compensation due and owing Glassey/McNeil by October 26, 1999, "each party shall have rights as a co-inventor to fully exploit the Controlling Access Patent without accounting or control by the other".

Finally, I point out that the Co-Inventor Agreement expressly forbids the assignment by Digital of any obligations thereunder.

As a result, Datum's settlement proposal is not acceptable in its present form due to its co-mingling of issues regarding the Co-Inventor Agreement with issues which were fully addressed in my correspondence to you of June 29, 1999. In the event that Datum wishes to have exclusive rights to the technology developed under the Co-Inventor Agreement, this would require the payment of additional consideration (beyond that demanded herein) to compensate Glassey/McNeil for the loss of rights which we believe they currently possess.

In light of the above, please consider the following counter-proposal. This counter-proposal shall track the numbering sequence of your letter dated August 20, 1999:

As to consideration received by Datum --

1. This term is acceptable with respect to all matters except for any dispute relating to the Co-Inventor Agreement. In addition, our clients require Datum to completely release them -- I assume you are contemplating a mutual release;
2. This term is acceptable with respect to all matters except for any properties relating to the Co-Inventor Agreement;
3. This term is acceptable with respect to all matters except the Co-Inventor Agreement;

4. This term requires some clarification. If the intent of your language is to restrict our clients from competing with respect to the particular technologies at issue, then I suspect we are close to agreement;
5. This term is acceptable;
6. This term is acceptable;
7. This term is acceptable.

As to consideration received by our clients, you will recall that at our meeting of July 26, 1999, we requested that any proposal be structured (if possible) in the alternative. Specifically, if circumstances were such that a royalty stream or other continuing relationship was not mutually desirable, a lump-sum payment might be considered in the alternative. I believe (and given recent events, you might be inclined to agree) that a royalty structure is no longer prudent. In light of the relationships between the parties, such a structure may only engender further hostility, dispute, and potential litigation.

As a result, we propose the following:

- A. Datum shall pay to GMT/Glassey/McNeil the sum of Two Million Dollars (\$2,000,000.00) in consideration for settlement of all issues in dispute between the parties other than those related to the Co-Inventor Agreement. One Million Dollars (\$1,000,000.00) of this amount would be payable upon the execution of appropriate settlement documents. The other One Million Dollars (\$1,000,000.00) would be payable in equal installments over a two (2) year period.
- B. A lump-sum payment in the amount of Two Million Dollars (\$2,000,000.00), payable to Glassey/McNeil in compensation for services performed under the Co-Inventor Agreement relating to the development of the Controlling Access Patent. It would appear this amount is reasonable in light of the market value considerations discussed above. This amount would be payable upon the execution of appropriate settlement documents.

John F. Cannon, Esq.
August 24, 1999
Page 5

- C. A ratification of the Co-Inventor Agreement as it currently exists, memorializing all terms contained therein in their current substance, so as to confirm the respective rights of Datum and GMT/Glassey/McNeil to the intellectual properties discussed therein.

This correspondence, as well as all previous letters and other communications with regard to these matters, including (but not limited to) all E-mail correspondence and my letters to you of May 14, 1999 and June 29, 1999, are discussions of and offers in compromise of disputed matters and as such are protected by California Evidence Code § 1152, et. seq. Under no circumstances does GMT/Glassey/McNeil waive any argument, position, claim or defense by or through the contents of any such correspondence.

Please let me know your comments with regard to the foregoing at your earliest convenience.

Very truly yours,

JASON R. BOOK, Esq.

JRB:jrb
cc: Todd S. Glassey

September 24, 1999

John F. Cannon, Esq.
STRADLING YOCCA CARLSON & RAUTH
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660-6441

Via Facsimile
and U.S. Mail

**Re: Glassey McNeil Technologies, Inc. ("GMT") and GMT
Principals ("Glassey/McNeil"); Datum Corporation ("Datum");
Ownership of Intellectual Property; Breaches of Nondisclosure
Agreement by Datum; Rights Relative to the Co-Inventor
Agreement Between Glassey/McNeil and Digital Delivery, Inc.
("Digital").**

Dear John:

This correspondence addresses the issues raised in your letter of August 31, 1999, and provides additional documentation to support the position asserted in our letters of June 29, 1999, and August 24, 1999.

1. Disclosure of Technical Information which Resulted in the "Datum TTI".

Our position is that the TTI which Datum contends was developed by David Robinson is derived from certain technical information disclosed by GMT/Glassey/McNeil to Datum pursuant to the NDA. The majority of work relating to the TTI was produced by GMT/Glassey/McNeil and disclosed to Datum after the expiration of the written term of the Consulting Agreement. As the following explanation illustrates, the Robinson two-page description of the TTI (first promulgated on December 22, 1998 and attached hereto as EXHIBIT "A"), is clearly derived from such technical information.

GMT/Glassey/McNeil contend that without the disclosure of this technical information to Datum through Mr. Robinson, Mr. Robinson would not have had the technical foundation to create the TTI. By his own admission in E-mail correspondence attached as EXHIBIT "B", Mr. Robinson was learning about E-commerce as the relationship with GMT/Glassey/McNeil progressed, having no prior depth of experience with the subject. The TTI is a timing infrastructure of primary utility in E-commerce transactions. Glassey first conceptualized the TTI and disclosed his concepts of TTI structure and function to Datum through Mr. Robinson. Through the disclosure of the following technical information, Mr. Robinson used GMT/Glassey/McNeil concepts to create the TTI

A. Information Provided as Exhibits to Correspondence of June 29, 1999.

With regard to the following technical information, please refer to the Exhibits attached with my correspondence of June 29, 1999, as additional copies of these exhibits are not attached to this letter.

(1) EXHIBIT "E" to June 29, 1999 letter.

This memo from Glassey was provided to Datum in July 1998 and outlines the design of the Software Development Kit ("SDK") and provides the basis for the general software architecture of the board level products. The contents of this memo have been incorporated into Robinson's December 22, 1998, outline of the TTI under the heading "Trusted Time SDK". As the tone of the memo's opening paragraph makes clear, at the time Glassey disclosed this memo to Datum, he was advocating that the TTI contain an SDK of the particular structure and function set forth in his memo. Prior to Glassey's memo, the role of SDK's in the TTI, if any, was unclear. Our position is that without this memo, the "Datum TTI" may not have incorporated an SDK component. In this same memo, Glassey also sets forth technical goals and guidelines for personnel at GMT and Datum's E-Commerce Department for system design and implementation.

(2) EXHIBIT "F" to June 29, 1999 letter.

This document outlines certain conceptual and architectural specifics of the TTI, the total Trusted Local Clock ("TLC") services suite, and timestamping SDK. First Disclosed to Datum in August, 1998, this document provides detailed descriptions of TTI components,

including the "Time Token Format", and proposes specific system protocols for the application protocol interface ("API"). The contents of this memo have been incorporated into Robinson's December 22, 1998, outline of the TTI designated as "Customer API." Again, our position is that without the information disclosed to Datum in this document, Mr. Robinson would not have been able to create the TTI in its present form. GMT/Glassey/McNeil assert that the concept of a "Time Token" was a concept created solely by Glassey and disclosed to Datum pursuant to the NDA. It is very unlikely that without access to this information, Mr. Robinson could have conceptualized the "Temporal Token" referred to in his outline of the TTI, nor had any idea as to how such a token would function in relation to the remainder of the TTI.

(2) EXHIBIT "G" to June 29, 1999 letter.

This document describes the lightweight timestamping API, Architecture of the Timestamp Token, and software components of the TTI. This document was provided to Datum in October 1998. The contents this document have been incorporated into the "Customer Workstation", "Customer API", "Trusted Time SDK", and "Trusted Local Clock" portions of Robinson's December 22, 1998 outline of the TTI. Again, given Mr. Robinson's lack of E-commerce background, it is unlikely that he could have created the TTI without access to this information.

B. Additional Information.

In October 1998, Glassey presented to Datum the document attached hereto as EXHIBIT "C", which addresses the following modifications to the TTI and operating models for the U.S. Government/NIST and Datum relationship: (1) modification of the Trusted Third Party Clock to include a TLC, creating a "Virtual Timing Instrument"; and (2) evaluation of the NIST protocol. This document provided the framework for Robinson's December 22, 1998 outline by describing the function and interaction of the T3PC, TLC, NIST, and the Virtual Timing Instrument within the TTI. Please note that at the time of disclosure to Datum of this document, Mr. Robinson had yet to produce for GMT/Glassey/McNeil *any documentation* regarding the TTI architecture.

Also attached hereto as EXHIBIT "D" is Glassey's GMT Memo v3 which is an updated version of the GMT Position Paper submitted to David Robinson in October, 1998.

This document contributed to the framework of the Robinson December 22, 1998 TTI outline by providing a comprehensive review of concepts associated with the TTI system and making architectural recommendations for the TLC. The document also described, in great detail, functional characteristics of the TLC and associated TTI components which enabled Mr. Robinson to create the TTI outline. For example, pages 4 and 14 of Memo v3 describe the use of a "time token" to identify the structure and certification of time data, and provide specifications for the time token. Page 1 of David Robinson's December 22, 1998, TTI outline references such a token as the source utilized to pass information.

Attached hereto as EXHIBIT "E", is the Cryptographic Framework documentation which was disclosed to Datum in August, 1998. Please pay special attention to Section (1) of the Cryptographic Specifications for the Datum TLC. This document provided the following information: (1) an operational overview of the TTI system; (2) identification of cryptography requirements for Datum's E.C. product suite; (3) framework and specifications for the TLC; (4) advantages and disadvantages of various elements in the TTI system; (5) identification of Certification Authorities, options, and procedures; (6) procedures for connecting the TLC to system components; (7) identification of connecting protocols for the NIST and the Secure Remote Calibration, Control, Certification ("SRC3"); (8) descriptions of integrated hardware elements, security considerations; and (9) recommendation of algorithms.

C. Conclusion.

In light of the copious amounts of documentation relating to the TTI disclosed by our clients to Datum through Mr. Robinson, and in light of these disclosures having occurred subsequent to the expiration of the written terms of the Consulting Agreement and throughout mid to late 1998, it is almost inconceivable that Mr. Robinson, who admittedly had comparatively little E-commerce background at the time, could create the document attached hereto as EXHIBIT "A" in December, 1998, without the use of concepts disclosed to him by our clients. Given that EXHIBIT "A" is a mere two (2) page description of the TTI architecture, and at the time was represented to our clients as the totality of all Datum efforts to date in relation to the design of the TTI structure, it strongly appears that Mr. Robinson has merely taken certain GMT/Glassey/McNeil concepts relating to the design of a Trusted Timing Infrastructure and packaged them in a particular format. The fact that Mr. Robinson has created the TTI architecture in the form existing on December 22, 1998, does not mean

that the architecture and all of its components belong to Datum. Indeed, this architecture is merely derivative from concepts disclosed to Datum by GMT/Glassey/McNeil as set forth above, and as such GMT/Glassey/McNeil have an interest in the TTI architecture.

2. Co-Inventor Agreement Issues.

As alluded to in my letter of August 24, 1999, Datum's position that the conceptualization of the subject matter of the Controlling Access Patent took place while Glassey was a Datum consultant and during a trip paid for by Datum is totally without merit. The confusion surrounding this issue appears to relate to a trip Glassey took in June, 1998 when he was a Datum consultant. The trip in question had two main purposes: (1) Glassey was to interview David Thiede, who was being considered for employment with the Datum E-Commerce Department; and (2) Glassey was to introduce Datum personnel to West Publishing. At no time during this trip did Glassey discuss the subject matter of the Controlling Access Patent.

Attached hereto as EXHIBIT "F", is a February 25, 1998 E-mail from Mr. T. Mark Hastings ("Hastings") to Glassey providing information concerning the firm who handled a previously issued patent. As of the date of this email, Glassey and Hastings had already begun to examine Digital Delivery's Confidential Courier patent for the purpose of adding functionality for certified time and spatial control. These concepts are fundamental to the Controlling Access Patent. Hastings subsequently sent Glassey copies of the patent documentation for review.

Attached hereto as EXHIBIT "G" are two E-mails of February 25, 1998, which were exchanged between Glassey and Hastings. In Glassey's E-mail to Hastings, Glassey sets forth numerous ideas for improving the Confidential Courier product. Hastings responds to Glassey by thanking him for his comments and advising that he will provide equipment/software that will allow Glassey to decrypt the courierpak.

Attached hereto as EXHIBIT "H", is an email dated April 22, 1998, from Glassey to Hastings recommending specific areas of improvement for the Confidential Courier product.

Attached hereto as EXHIBIT "I", is a November 17, 1998, email from McNeil to Robinson. Please note Item No. 4, page 3, states the following:

"GMT and Datum have discussed many times and Datum has equally many times denied (despite GMT's recommendation) having any interest in the patent between Glassey-McNeil and Digital Delivery. GMT needs a letter from Datum whereby Datum issues a disclaimer and waiver of rights with regard to this technology. (Digital Delivery will pursue this also.)"

Prior to November 1998, GMT had repeatedly communicated to Datum that GMT required written confirmation that Datum had no interest in the subject matter of the patent. During this time, Datum was fully aware that GMT was pursuing the project with Digital and did not object. GMT did not pursue this matter further, due to repeated assurances from Datum personnel that Datum lacked interest in the subject matter of the patent, and because GMT desired to promote a "good working relationship" between the two companies.

As you can see from the above, the GMT/Glassey/McNeil had conceptualized and begun the project with Digital in early 1998. The specific intellectual property contributed by our clients to the Digital project was actually developed in 1997 during the time Glassey/McNeil were employed by Coastek InfoSys, Inc. ("Coastek"). Pursuant to a Modified Employment Agreement between Coastek and Glassey, Coastek allowed Glassey to pursue certain development work on his own time. The technology related to the Controlling Access Patent was one such project.

As to Datum's intentions regarding the GPS Phase II technology, if we are mistaken as to Datum's plans relative to this technology, it should follow that Datum should have little problem with a ratification of the Co-Inventor Agreement as previously proposed. In the event that Datum is willing to ratify this Agreement with our clients, such ratification may effect the total amount of monetary compensation which our clients would expect to receive from other claims.

I hope that the foregoing documents and explanations will increase our understanding of the disputed issues. I hope this information will bring our clients closer to settlement.

Very truly yours,

John F. Cannon, Esq.
September 24, 1999
Page 7

JASON R. BOOK, Esq.

JRB:jrb
cc: Todd S. Glassey
Enclosures: Exhibits A through I.

Exhibit 9 – McNeil to Robinson Communication from later 1999 time frame.

This letter contains COLORED *(yellow(HIGHLIGHTS)) on a conversation with DAVE ROBINSON, President of DATUM/BANCOM and GMT over our rights and the value of our IP.

ROBINSON is clearly adversarial and uses foul language abusing McNeil and Glassey at every turn. Robinson was later TERMINATED by Erik van Der Kaay and replaced with Mark Hastings in a Governance War which ultimately ended in ROBIONSON's Firing and re-starting GLASSEY and MCNEIL's Trusted Time Business inside Genreal Atomics Inc of San Diego.

General Atomics also 'fired' ROBINSON after their Board was formally put on notice by GMT that it and not ROBIONSON owned the business IP he had apparently brought to General Atomics in his effort to cause more financial damage to Glassey and McNeil as well as DATUM now that they fired him as well.

David,

Following is a working draft of our wish list. (Children at Christmas believe in wishes)

As you are aware, David, GMT has brought what might be termed a synergistic "critical mass" to Datum with regard to opportunities in the electronic-commerce marketplace. (No definition – no I am not aware of any critical mass, just some ideas we have to make real) Datum faced reduced circumstances in its traditional role, due to competition in those market segments along with world economics. (Piss on you, we are NOT WEAK at 128 M a year) GMT swayed Datum from its original business (And for that I have my ass in a sling right now) conception via GMT's vision of the role of cryptographically-secure *time* in electronic-commerce (so – you found another clock market not the holy fucking grail), worked with Datum strategic marketing to identify shape and size of the E.C. "time" market so a determination could be made as to how best to enter it, (Oh yea, where is this strategic marketing plan ... on a napkin) and tied together critical partnerships for Datum (Tied? Ain't nothing tied just talk)—based on GMT's pre-existing relationships (So what's your proof of that pre-existing relationship. A business contract, an agency agreement or a few phone calls ?)—to establish early adopters (Like who is in this Stable? And what proof of that is there?) and key technology symbionts. (What the fuck is a symbiont?) GMT was successful in communicating its vision to these external entities as well as to Datum. (Success = signed deals, contracts, money – you know tangible, concrete results) In intimate cooperation with Datum, GMT continues to drive the product and marketing vision for the entire E.C. project. (Driving but where and with who's map, certainly not a Datum map)

In support of these efforts, GMT:

- . worked with strategic marketing at Datum;
- . exposed Datum to GMT's proprietary customer list (a key piece of GMT's core intellectual property);
- . performed vital engineering on the E.C. products;
- . wrote, edited, attended fora, and negotiated with regard to "time" protocol standardization; and
- . worked with standards bodies to create legal notice
 - on time stamping.
 - (yada, yada, yada – show me something other than typical consulting – and damn little documentation of that.)

Given the demonstrated importance of the relationship between GMT and Datum. (Importance for you – Datum won't notice the absence of GMT) there is a strain in the foundations of the overall GMT/Datum relationship due to our neglect so far in finalizing the partnership. (Partnership! Fuck, you guys are consultants and we have already offered you a concept royalty – who the fuck do you think you are. Partners are equals.)

Completing what we started out to do is the next step. (Completing what, and I don't really give a damn about what you started out to do – all I care about is my job and Datum) Now that GMT is incorporated (BFD - \$1,300m and Nolo Press), these sticking issues (Sticking? What Issues?) can and should be resolved (Sounds like an ultimatum – I hate ultimatums), so we can back get to the business of making a lot of money for each other. (So show me where you have made Datum money, what I want to see is the 1st dollar. So far, all Datum has is a stack of cancelled checks to Todd and Mike.)

As we recently mentioned to you, David, GMT's most important goal (Like I really give a shit about your self-serving goals) in these discussions concerning compensation is to alter the official relationship (so you don't need the consulting money anymore!) between Datum and GMT from the latter being considered a

contractor of the former (which, as we've repeatedly stated since the onset of our association, was never intended to be other than a stopgap measure until the long-term relationship between our two companies could be worked out. Oh come on — you cashed the checks quick enough. If you really had any horsepower this would have all been laid out before.) to one of a strategic relationship between partners. (I can see it now, Press Release President of Datum-Bancomm announces strategic partnership with two guys in Scotts Valley. These brilliant guys, working out of their home will guide Datum into billions of dollars of sales in the lucrative EC market, where Datum doesn't have a clue. Next Press Release, New President for Datum Bancomm announced in unexpected Board Meeting.)

GMT considers this aim, by the way, to be already implicit in the relationship that Datum and GMT have been building (The relationship is we pay you...that is IT)—parts of an arrangement you and we have discussed in a general way, in principle, informally, a number of times, and we're merely formalizing now. (If we discussed this so many times, why didn't you get the message get credible and give me some ammunition!)

To assist in furtherance of this strategic partnership, GMT encourages (but does not mandate, of course) (How kind of you!) Datum to invest in GMT, (that is a winning sales pitch ... we want your money and equal footing as a strategic partner.) so GMT's customers (customers indicates someone has bought something from you before or currently) are automatically also Datum customers, and thus nit-picking over whose customers cease. (ANYONE buying from Datum is a Datum CUSTOMER, reps get a commission and that is all.) Also, if Datum were to invest in GMT, this would be a way in which compensation moneys to be paid to GMT (discussed below) would flow back to Datum (damn, you mean I can invest in you and get the money back. Neat, just exactly how will that work. So I give you a partnership, invest in you and then get a fraction of the money invested back ... in what form — dividends, IPO, come-on give me a clue. My CFO is interested too.), and thus each company participate in the other's success. (I see you participating, but we is a mutual term) Investment in GMT could also occur in lieu of elements of the compensation package, if that were desired. (Shit, I could not invest and lieu-lieu the comp plan entirely, if you really want)

On to the elements of compensation. (After the Sun, Moon and Stars comes the Universe???) (The following is not intended to be locked in stone; there are a number of very creative ways to do what the following accomplishes, including pre-payment of royalties, etc.)

1. As discussed informally in numerous conversations regarding GMT's compensation package at Datum, GMT is to receive an "override"—a percentage off the top (gross, not net) on every electronic-commerce product which Datum sells. The E.C. "time" and timestamping business may well take off slowly over the next few years, and as a result the override—of, say, 3 percent—should last, we suggest, for 7 years, starting when the phase 2 product begins shipping sometime next year.

Furthermore, if Datum establishes or causes to be established a time-services division or corporate spin-off which obtains revenue as a result of producing a chain of certified time, these moneys should

included in the definition of income subject to the override. (Oh really – We GIVE you a division! Guys, time is not something new and we do have some prior experience in the area.)

2. Value Added Reseller (VAR) compensation. As informally discussed a number of times, one of the ways GMT expects to participate with Datum in their future relationship is as a Datum reseller, and GMT has already sent in its application for a regular position as a Datum VAR. In most respects GMT envisions that the VAR relationship with Datum will be typical. However, there are a few extraordinary features, to wit:

- a. Since all accounts Datum so far possesses in the electronic-commerce arena are based on GMT's pre-existing relationships, until the public announcement that Datum is actually in the E.C. business, GMT is to be the exclusive VAR and distributor for electronic-commerce products, and GMT shall retain such customers as a Datum VAR after the announcement. (In another manner of speaking, there are to be no Datum "house" accounts during this period.) Following the announcement, other Datum resellers will have the opportunity to bring their own customers (which they will retain) into this market with Datum, and Datum will be free to establish new relationships as house accounts.
- b. If Datum wants to take over an acknowledged GMT account to make into a Datum house account, Datum must pay GMT up front first (some thousands of dollars—say, \$50,000 Aw, come-on make it \$100k while your dream'n). GMT should also receive a larger override on products sold to that customer. Note- Explain to Accounting the special treatment issue)

Other details of the GMT-Datum VAR relationship are more typical:

- c. In addition to the 3 percent across-the-board override mentioned above, sales to GMT customers (see above) shall be discounted by the standard VAR percentage. Typical for this would be some 40 percent off the list price on all items sold. The difference between this discounted price and actual price paid goes to GMT.
- d. GMT and Datum must come to an agreement with regard to market development monies Datum will pay GMT for the purpose of GMT's developing the marketplace in the electronic-commerce area, similar to other reseller-manufacturer arrangements of the kind. (Similar plans are we pay you a % when the check clears and we give you FREE Sales Literature)
- e. GMT must be able to take Datum's hardware products and repackage these under GMT's own drivers and software. Any solutions that GMT develops in such a manner must belong to GMT as a result. I really can't take it anymore – there is no glimmer of reasonableness in any of this. Fuck, at least my grandkid's wish list is under a billion.

3. Original Equipment Manufacturer (OEM) compensation. There are two fundamental types of accounts: VARs and OEMs. VARs are end users and software developers, whereas OEMs are integrators and partners. OEM-style relationships are seldom established for less than (usually) *tens of thousands* of product shipped or expected to be shipped. As a result, if GMT brings a relationship to Datum that ends up being an OEM-type relationship—with all that implies in terms of ultimate sales potential—then GMT ought to be compensated appropriately

(on the order of \$25,000 to \$50,000 would appear to be about right).

Several non-monetary issues round out the compensation package:

4. GMT and Datum have discussed many times and Datum has equally many times denied (despite GMT's recommendation) having any interest in the patent between Glassey-McNeil and Digital Delivery. GMT needs a letter from Datum whereby Datum issues a disclaimer and waiver of rights with regard to this technology. Why do anything. Nothing is much, much safer. If Digital Delivery pursues it too hard, well just keep our money thank you all very much. (Digital Delivery will pursue this also.)

5. Products and ideas developed by GMT jointly or in association with Datum should have full licensed rights to utilize such products/ideas and derive offshoot products and ideas therefrom reside with GMT.

6. Other issues to be discussed between Datum and GMT include:

- . Additional engineering work GMT might perform to create components of Datum's electronic-commerce initiative,

- . Compensation for other roles that GMT has undertaken and will continue to pursue in the future vis-a-vis Datum's E.C. initiative—such as marketing, market development, sales, and continuing standardization efforts with regard to protocols developed and encompassing infrastructure.

- . A metric needs to be established for deciding when a Datum deal with an E.C. partner or customer is done.

The above list is not meant to be totally comprehensive. In particular, there is an issue or two GMT is discussing with its corporate attorneys with regard to implications. We do not wish to bring these up here as a result, but also don't want to foreclose on those issues for the future.

Please get back to us with any questions or comments you might have concerning any of this, David. Thank you very much for your interest!

Best regards,
Michael McNeil
Vice President, Chief Financial Officer
GMT - Glassey-McNeil Technologies

Exhibit 10 – DATUM NDA

This exhibit contains the DATUM NDA

RECIPROCAL NONDISCLOSURE AGREEMENT

THIS AGREEMENT, dated November 24, 1998, by and between Datum Inc., a Delaware corporation ("Datum"), and Glassey-McNeil Technologies, a California corporation ("GMT"), witnesses that Datum and GMT agree as follows:

R E C I T A L S :

WHEREAS, the parties hereto are engaged in discussions regarding the existing *business relationship for the development and marketing of certified time and derivative products*. During which discussions each party may disclose to the other certain information that may include, but is not limited to, ideas, concepts, know-how, techniques, operations, programs, facilities, computer systems, computer terminals, systems design, computer databases and software, communications networks, finances or financial information, product development plans, business directions, market plans, prospective and existing customer names and other technical or business information (collectively, "Confidential Information").

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereto agree as follows:

1. All material written or encoded or in graphic or other tangible form shall be deemed Confidential Information and subject to restricted use as provided herein if it is marked in a manner to indicate that it is considered "Confidential" or "Proprietary." Information that is provided orally shall be deemed Confidential Information only if it is clearly identified by the disclosing party as being confidential or proprietary at the time of disclosure.
2. Each party that receives Confidential Information under this Agreement shall:
 - (a) hold all Confidential Information in confidence and protect it with the same degree of care with which the party protects its own Confidential Information;
 - (b) use such Confidential Information only for the purpose set forth above, except as may otherwise be previously agreed to in writing;
 - (c) not copy or otherwise duplicate such Confidential Information, except for the purpose of this Agreement, or knowingly allow anyone else to copy or otherwise duplicate any Confidential Information then under its control without the disclosing party's prior written approval;
 - (d) restrict disclosure of such Confidential Information solely to those employees with a need to know, and not disclose it to any other persons; and
 - (e) advise all employees who receive such Confidential Information of their obligations under this Agreement with respect to any Confidential Information that is disclosed to them.

3. At any time, either party hereto may request that the other shall promptly return all Confidential Information in tangible form, and the party receiving such request shall comply by returning all Confidential Information.
4. The party to whom Confidential Information is disclosed shall have no obligation to preserve the confidential/proprietary nature of information designated as confidential if, prior to any release of such information, it can demonstrate to the disclosing party that such Confidential Information:
 - (a) is already known to it or its affiliates, free of any obligation to keep it confidential or proprietary;
 - (b) it is or becomes publicly known through no wrongful act of the party or its affiliates;
 - (c) is received from a third party without any restriction or confidentiality;
 - (d) is independently developed by the party or its affiliates;
 - (e) is disclosed to third parties by the other party hereto without any obligation of confidentiality; or
 - (f) is approved for release by prior written authorization of the disclosing party.
5. Nothing contained in this Agreement shall be construed as granting or conferring rights by license or otherwise in any Confidential Information.
6. This Agreement may not be assigned by either party to any third party, but shall benefit and be binding upon the parties hereto and their respective successors.
7. This Agreement constitutes the entire understanding between the parties with respect to the matter hereof and shall not be altered, modified or amended except in writing executed by both parties.
8. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

9. The restrictions contained in this Agreement shall extend for a period of five (5) years from the date of receipt of such Confidential Information.
10. That this document is being executed as a formality to consummate a verbal agreement of the same terms and conditions that arose between Todd S. Glassey, GMT and David Robinson, Datum – Bancomm Timing when GMT was retained by Datum in April of 1998 to investigate the common market/product potential of a secure timebase for e-commerce.

DATUM INC.

By David Chh... 12/2/98
Its President of Bancomm - Timing

GMT

By Todd S. Glassey 12/2/98
Its President

Exhibit 11 – DATUM VAR AGREEMENT

This exhibit contains the DATUM VAR AGREEMENT to properly compensate GMT for the sales of TTI gear in all instances.

DATUM, INC., BANCOMM DIVISION

VALUE ADDED RESELLER (VAR) AGREEMENT

THIS VALUE ADDED RESELLER AGREEMENT (this "Agreement") is entered into as of the 26th day of February 1999 (the "Effective Date") by and between Datum Inc., a Delaware corporation, through its Bancomm-Timing Division, with its principal place of business at 6781 Via Del Oro, San Jose, California 95119-1360 ("Datum") and GMT Inc., a California corporation, with its principal place of business at 109A Bluebonnet Lane, Scotts Valley, California 95066 ("GMT"). In consideration of the mutual covenants contained herein, the parties do hereby agree as follows:

1. PRODUCTS

The hardware, equipment and software offered by Datum under this Agreement shall be those products that are both (a) manufactured by the Bancomm-Timing Division of Datum and/or the FTS Division of Datum and (b) generally offered to value added resellers (the "Datum Products"). Any customized Datum Products or other items that Datum agrees to develop or provide for GMT shall be deemed "Datum Products" for the purposes of this Agreement and shall be subject to the terms of this Agreement, unless otherwise expressly agreed by the parties.

2. GRANT OF RIGHTS; EXCLUSIVITY; DUTIES OF GMT

2.1 Subject to the terms and conditions of this Agreement, Datum hereby grants GMT the following worldwide, limited, nonexclusive, nontransferable rights: (a) to develop, market, distribute, license, sublicense, and sell integrated system solutions that contain the Datum Products ("GMT Products"); (b) to use the Datum Products for demonstration purposes in connection with the marketing and distribution of the GMT Products; (c) to use the Datum Products in connection with providing maintenance and support services to end-users of the GMT Products; and (d) reproduce and distribute any product manual delivered by Datum under Section 8 hereof, provided such manuals are distributed only with GMT Products containing the Datum Product that is the subject of the manual.

2.2 GMT hereby agrees to the following:

(a) All Datum Products purchased under this Agreement shall be integrated in GMT's Products or services by GMT only and that the Datum Products may not be resold or quoted separately to any third party. GMT agrees that, in any such integration, GMT will provide supporting software or hardware interfaces such that the Datum Products provided by Datum will have greater functional capability than they would without GMT's added software or hardware interfaces.

(b) GMT shall use, and shall permit others to use, Datum Products only in a manner permitted and intended by this Agreement. Any other use of Datum Products either by GMT or permitted by GMT shall constitute a breach of this Agreement.

(c) If advertised or offered in GMT's promotional materials, Datum Products purchased under this Agreement will be represented as being an extended capability of GMT's Products. GMT will not perform any promotional activities that would indicate that GMT is marketing Datum's Datum Products as standalone items.

(d) GMT shall install the Datum Products in GMT's Products or services and shall bear all expenses for installation and such testing at its facility as it may require for its purposes.

(e) In connection with sale of GMT Products, GMT shall perform the application, system, and programming analysis of its and its customer's requirements, as well as system programming, equipment integration, installation and maintenance, as required.

2.3 GMT shall use commercially reasonable efforts to advertise, market, promote and sell the GMT Products, including, without limitation, in connection with the sales of secure or trusted time ecommerce products.

2.4 During the Term, GMT shall not enter into any agreement with any other party relating to the use, sale and distribution of products and services that are substantially similar to those represented by the Datum Products, except as expressly permitted herein or with Datum's prior written consent.

3. PRICES

3.1 For each Product purchased hereunder, GMT shall pay the price listed on Datum's most recently published commercial price list (subject to Section 3.3), less a twenty-five percent (25%) discount (the "Discount").

3.2 Any customized Datum Products or other items that Datum agrees to develop or provide for GMT shall be sold at a price to be negotiated by the parties in good faith.

3.3 Prices shall be subject to change upon ninety (90) days written notice to GMT.

3.4 GMT shall pay Datum's standard shipping and handling costs for all Datum Products delivered to GMT. Notwithstanding the foregoing, shipping and handling costs for Datum Products delivered by other than a surface common carrier shall be at an additional charge.

3.5 Any technical support or repair services for the Datum Products that GMT desires shall be supplied at GMT's request by Datum at Datum's then current rates and pursuant to the terms of its then current technical support or repair services agreement.

3.6 Datum agrees that if, during the Term, Datum offers to any other person or entity a discount on the prices of any of the Datum Products that is greater than the Discount under similar economic conditions, Datum shall immediately so notify GMT and thereafter, GMT shall receive the same such discount for such Datum Products.

4. SPECIFICATIONS/OPERATION

All specifications of all board level Datum Products are subject to change without notice except on customized Datum Products. Specifications may be changed without prior approval or notice to GMT. GMT shall be furnished copies of field change notices and/or Engineering Change Orders ("ECOs") associated with any Product upon written request to Datum. Field change notices or ECOs are installed on all Datum Products that may be returned for repair under Section 3.5 above. In addition, ECOs or field changes shall be made at no cost to GMT on all Datum Products for one (1) year after the purchase thereof. The cost for changes to Datum Products purchased outside such one (1) year period shall be quoted to GMT upon receipt of the Datum Products.

5. TAXES

GMT shall pay or reimburse Datum for all federal, state and local taxes (exclusive of taxes on Datum's net income), duties and assessments, if any due, arising on or measured by amounts payable to Datum hereunder. All amounts charged for taxes of any kind any type of tax will be separately identified on Product invoices to GMT.

6. TERMS OF PAYMENT; SHIPMENT AND TITLE

6.1 Unless GMT shall establish and maintain other credit terms and conditions satisfactory to Datum, payment shall be made by GMT within thirty (30) days after receipt of invoice or receipt of invoiced Product, whichever is later. Any failure to make such payment when due shall be deemed a material breach of this Agreement.

6.2 Datum Products ordered under this Agreement shall be shipped F.O.B. from Datum's facilities in San Jose, CA and title shall pass (subject to the terms of this Agreement, the Software License Agreements and any other applicable third party agreement) to GMT upon shipment.

7. LIMITATION OF LIABILITY; DISCLAIMER; INDEMNIFICATION.

7.1 UNDER NO CIRCUMSTANCES SHALL DATUM BE LIABLE TO GMT OR ANY USER OF ANY DATUM PRODUCTS FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES (EVEN IF DATUM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS.

7.2 EXCEPT AS SET FORTH IN THIS SECTION 7, DATUM MAKES NO, AND HEREBY SPECIFICALLY DISCLAIMS ANY, REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE DATUM PRODUCTS, INCLUDING ANY IMPLIED WARRANTY OF TITLE, NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE AND GMT ACKNOWLEDGES THAT DATUM HAS NOT MADE ANY SUCH REPRESENTATIONS AND WARRANTIES.

7.3 If either party breaches any of its obligations under this Agreement, the

breaching party shall defend, indemnify, save and hold harmless the other party and the officers, directors, agents and employees of the other party from any and all claims, demands, liabilities, costs or expenses, including reasonable attorneys' fees ("Liabilities"), resulting from such breach, except where Liabilities result solely from the gross negligence or knowing and willful misconduct of the other party.

7.4 Each party agrees to (a) promptly notify the other party in writing of any indemnifiable claim and give the other party the opportunity to defend or negotiate a settlement of any such claim at that party's expense, and (b) cooperate fully with the other party, at that other party's expense, in defending or settling such claim.

7.5 Datum reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by GMT hereunder, and in such event, GMT shall have no further obligation to provide indemnification for such matter hereunder.

7.6 Certain Datum Products may come with a guarantee provided by third party vendors or manufacturers. In the event GMT wishes to make a claim under such a third party warranty, GMT shall notify Datum and Datum shall, at its option (a) direct GMT to deal directly with the warranty provider or (b) direct GMT to return such product to Datum for Datum to obtain the benefits offered under the warranty for GMT.

8. DOCUMENTATION

Datum will provide GMT with an electronic copy of each Product manual delivered to GMT for use by GMT in producing hardcopy manuals for end-users subject to the terms of Section 2.1(d) hereof.

9. PROPRIETARY INFORMATION

"Proprietary Information" shall mean that information of either party which is disclosed to the other party ("Recipient") by reason of the parties' relationship under this Agreement, either directly or indirectly, in any written or recorded form, orally, or by drawings or inspection of parts or equipment, and, either in writing and conspicuously marked as confidential or proprietary, or if oral, reduced into writing similarly marked within thirty (30) days of disclosure. Recipient covenants and agrees that it shall not (i) disclose such Proprietary Information to any third person or persons, nor to any of Recipient's employees who do not have need to know such Proprietary Information to perform Recipient's obligations under this Agreement, nor (ii) use the Proprietary Information except for the purposes specifically provided for in this Agreement. In no event shall any Proprietary Information be disclosed by a Recipient to any persons not bound by confidentiality restrictions encompassing the foregoing.

This non-disclosure requirement will survive the termination of this Agreement. Proprietary Information shall not include information that:

(a) was in the public domain at the time it was disclosed or becomes in the public domain other than as a result of the actions by the Recipient;

(b) was known to Recipient at the time of disclosure as demonstrated by written

evidence;

(c) is disclosed with the prior written approval of disclosing other party;

(d) was independently developed by Recipient as demonstrated by written evidence;

(e) becomes known to Recipient, on a non-confidential basis, from a source other than the other party hereto, without breach of any other confidentiality obligations applicable to such information; or

(f) is required to be disclosed by the Recipient by applicable law or order of any properly constituted judicial authority or governmental agency.

10. SOFTWARE LICENSE

Any software provided hereunder is provided only under the terms of Datum's standard software license agreements (collectively, the "Software License Agreements" and individually the "Software License Agreement"). GMT hereby agrees to abide by the terms of each of the Software License Agreements provided with any Product, and further agrees to abide by any third party software license agreement that Datum may be required to supply with any Product. No right, title or interest in, to or under any software provided hereunder is conveyed to GMT except as set forth in the Software License Agreements. GMT agrees not to use, distribute, license or sublicense all or any part of any software other than as expressly permitted under the applicable Software License Agreement. No source code is required to be provided under this Agreement.

11. GOVERNMENT RIGHTS IN COMPUTER SOFTWARE

The terms of this Agreement shall prevail over any U.S. Government procurement policy, regulation, or contract clause relating to rights in computer software. All software is provided on the express condition that any license of such software which is provided to the U.S. Government will be provided to the U.S. Government only with restricted rights and limited rights. Use, duplication or disclosure by the U.S. Government is subject to restrictions set forth in FAR Sections 52-227-14 and 52-227-19 or DFARS Section 52.227-7013(C)(1)(ii), as applicable.

12. EXPORT CONTROLS

No technical data and samples provided hereunder may be exported from the United States or re-exported from any other country, except in the compliance with the pertinent laws and regulations, including without limitation all applicable statutory and regulatory restrictions of the U.S. Department of Commerce, and GMT agrees to operate in full compliance with these, and all other applicable laws.

13. MANUFACTURING RIGHTS

13.1 In the event that, during the term hereof, Datum (or its successor or assignee hereunder) ceases to be a manufacturer of, or no longer makes available for sale to GMT, any Datum Product that has been purchased hereunder which was manufactured by Datum ("Discontinued Products"), then GMT shall have the option, on written notice to Datum to require Datum to grant to

GMT a manufacturing license to manufacture such Discontinued Product, as set forth below; provided however that GMT provides written notice to Datum of such intent prior to GMT manufacturing any Product.

13.2 Upon proper notice by GMT as set forth in Section 13.1, Datum shall automatically grant to GMT, to the extent it has the right to do so, a nonexclusive, nontransferable license, without right to sub-license, to manufacture Discontinued Products and to sell Discontinued Products as authorized herein, and to authorize third parties to manufacture Discontinued Products for sale only to GMT. To facilitate GMT's manufacture of Discontinued Products, Datum shall, within a reasonable time after GMT's exercise of its option for the license, deliver to GMT one (1) copy of all documentation and other materials as are available and as were used by its own manufacturing and engineering departments for the production of the Discontinued Products. GMT shall reimburse Datum's reasonable costs incurred in assembling and delivering these materials.

13.3 GMT agrees that materials and information provided pursuant to this Section 13 are Proprietary Information. In no event shall this license be construed as granting GMT the right to manufacture and sell any Discontinued Product in competition with Datum. To the extent that the rights granted in this Section 13 requires the payment of royalties or other consideration to third parties, GMT's rights hereunder shall be conditioned on its agreement to pay, and its payment, to Datum such royalties or other consideration.

14. SPARE PARTS

Subject to Section 13 and for Datum Products manufactured by Datum only, Datum shall maintain a supply of components to manufacture spare parts (or equivalent parts consisting of the same form, fit and function) (together, "Spare Parts") upon the receipt of an order from GMT and sell the same to GMT at its then current price for a period of ten (10) years from the date of last purchase of such Product purchased under this Agreement by GMT, provided that any components that are vendor-supplied parts remain commercially available to Datum.

15. SPARES/SUPPORT EQUIPMENT DATA ITEMS

15.1 Datum shall provide, when requested, a list and estimated cost of spares needed to support the Product(s) for a period of one (1) year.

15.2 Datum shall provide, when requested, a list and estimated cost of support equipment, such as test equipment, card extenders, etc., to support the Datum Products.

16. INITIAL TERM AND TERMINATION

16.1 The initial term of this Agreement ("Initial Term") shall commence on the Effective Date and shall continue for a period of two (2) years. At the end of the Initial Term, this Agreement shall automatically renew for successive annual periods unless terminated by either party upon sixty (60) days written notice (the Initial Term plus any renewal periods being the "Term"), except that GMT purchase orders existing at the time of such notice of termination will not be affected.

16.2 Notwithstanding the foregoing, either party may terminate this Agreement,

with or without cause, upon ninety (90) days written notice to the other party, except that GMT purchase orders existing at the time of such termination will not be affected.

16.3 Notwithstanding the foregoing, Datum may immediately terminate this Agreement on the occasion of GMT's voluntary or involuntary bankruptcy, insolvency, sale of substantial assets, reorganization or liquidation proceeding, assignment for the benefit of creditors or admission in writing of an inability to pay debts when due.

16.4 Within thirty (30) days of a material breach of the terms of this Agreement by either party, written notice shall be provided to the breaching party. A ten (10) day period ("Cure Period") shall be granted to correct the breach. At the end of the Cure Period, if the breach has not been corrected, either party may terminate this Agreement upon written notice. Notwithstanding the foregoing, Datum may terminate this Agreement upon notice to GMT upon a material breach by GMT of Sections 2, 9, 10 or 12 and Datum shall retain all payments and recover for damages sustained by Datum due to such breach, without limiting any other remedy Datum may have at law or equity.

17. ASSIGNMENT

GMT shall not assign, encumber or otherwise transfer the Agreement, or any interest herein, without the prior written consent of Datum, which consent may be withheld at Datum's sole discretion; provided, however, that GMT may assign this Agreement without such prior consent in connection with the sale of all or substantially all of its assets or a change in control or majority ownership of GMT, so long as acquirer is not a competitor of Datum, as reasonably determined by Datum.

18. DEMONSTRATION/EVALUATION UNITS

Upon GMT's written request, Datum shall provide GMT with those demonstration/evaluation units from Datum's pool of such equipment that Datum may have available from time to time, if any, at Datum's then current rates for such units.

19. INDEPENDENT CONTRACTORS.

The parties to this Agreement are independent contractors. Neither party is an agent, representative, or partner of the other party. Neither party shall have any right, power or authority to enter into any agreement for or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other party. This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the parties or to impose any partnership obligation or liability upon either party.

20. FORCE MAJEURE

Neither party shall be liable for, or be considered in breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a result of any causes or conditions which are beyond such party's reasonable control and which such party is unable to overcome by the exercise of reasonable diligence.

21. GOVERNING LAW; VENUE

This Agreement shall be interpreted and construed in accordance with the laws of the State of California without regard to its conflicts of laws rules. In any dispute between the parties with respect to this Agreement, the prevailing party will be entitled to receive its reasonable attorneys' fees and expenses and other out-of-pocket costs, in addition to any other relief to which it may be entitled.

22. AMENDMENT; WAIVER; SEVERABILITY

This Agreement may not be amended, modified or supplemented by the parties in any manner, except by an instrument in writing signed on behalf of each of the parties by a duly authorized officer or representative. Any of the provisions of this Agreement may be waived by the party entitled to the benefit thereof. Neither party shall be deemed, by any act or omission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the waiving party, and then only to the extent specifically set forth in such writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event. If the application of any provision(s) of this Agreement shall be held to be invalid or unenforceable by any court of competent jurisdiction, then the validity and enforceability of other provisions of this Agreement shall not in any way be affected or impaired thereby and such provision(s) shall be reformed without further action by the parties and only to the extent necessary to make such provision(s) valid and enforceable when applied to such particular facts and circumstances.

23. NOTICES

Any notice or other communication under this Agreement shall be given in writing and shall be deemed to have been delivered and given for all purposes (i) on the delivery date if delivered personally to the party to whom the same is directed or transmitted by facsimile with confirmation of receipt, (ii) one (1) business day after deposit with a commercial overnight carrier, with written verification of receipt, or (iii) five (5) business days after the mailing date, whether or not actually received, if sent by U.S. mail, return receipt requested, postage and charges prepaid to the address of the party set forth in the first paragraph of this Agreement.

24. INJUNCTIVE RELIEF

GMT acknowledges that the unauthorized reproduction, distribution or use of the Datum Products or any Datum Proprietary Information, or the intellectual property rights embodied therein, will diminish the value thereof to Datum and that monetary damages would be insufficient to remedy such violation. Therefore if GMT breaches any confidentiality obligations herein, Datum

shall be entitled to equitable relief to protect its interests therein, including but not limited to injunctive relief, as well as any other remedies available in equity or at law.

25. ENTIRE AGREEMENT

This Agreement, and the attachments hereto as modified from time to time by Datum, represent the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior and/or contemporaneous agreements and understandings, written or oral between the parties with respect to the subject matter hereof, including, without limitation, that certain Value Added Reseller Agreement between the parties, dated as of October 19, 1998.

26. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties to this Agreement by their duly authorized representatives have executed this Agreement as of the Effective Date.

Datum Inc., Bancomm-Timing Division:

GMT Inc.:

By: _____

By: _____

Title: _____

Title: _____

Name: _____

Name: _____

Date: _____

Date: _____

Exhibit 12 – INFRINGERS ANALYSIS FOR
PATENT - US 6,370,629

The following Infringement Analysis outlines areas of IP which DATUM (SYMMETRICOM) is actively preventing GLASSEY and MCNEIL from asserting their proper IP rights against. In the area of cellular phone handsets alone, per the standard set in the RIM BLACKBERRY Settlement with NTP Inc, a fee of \$1/handset is a reasonable damage claim bringing the damages therein from 2009 alone to well into the \$1.5B USD area.

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Controlling Access to Stored Information

This letter forms an initial analysis of infringing technologies and products. Its intent is to show the scope of the patent's controls and what they control in "Today's World".

Patent Scope

The Controlling Access patent provides IP controls for a system which allows “for the accessing of specific memory or stored information in digital systems based on location or time of day”.

“STORED INFORMATION” is substantial including Program Registers** which are setup at INITIALIZATION TIME or during the operations of a system, as well as external I/O Objects including control-interfaces from Robotics and other Tracking Technologies as well as Digital Files (under DRM type applications) in addition to the location-time specific controls so well defined in the patent’s method and claim.

Why do we control this IP?

This patent is an amendment of a pre-existing US patent 5,646,992 owned by Mark Hastings and Gerald Willet for a digital encryption envelope called Confidential Courier. McNeil and myself own the IP which makes up the difference between the original patent and its updated one US 6,370,629.

Assignment Intent

The intent of the PATENT ASSIGNMENT agreement was to fast track the GeoSpatial IP's patent protection by amending the original confidential courier patent, US 5,646,992¹ and in lieu of this GLASSEY and MCNEIL would retain ownership of the IP's called the GeoSpatial and Temporal Controls and the owners of ConfidentialCourier would have their amended patent assigned to them as an enduring license to use the GeoSpatial IP in that confidential courier product.

Two Settlement's

So this assignment of the IP rights in the patent assignment is countered by a reassignment of those IP's to McNeil and myself in the Co-Inventor's Settlement Agreement. That means without reviewing both of the Settlement's simultaneously it would be confusing and make it look like all of the rights belong to DATUM or its successor but that is not true.

Confidentiality of the Settlement's

Both agreement's are marked as confidential although they may be shown to parties to verify our legal rights to that IP including to investor's and infringers into that property.

¹ <http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=%2Fnetahtml%2FPTO%2Fsearch-bool.html&r=1&f=G&l=50&col=AND&d=PTXT&s1=5646992.PN.&QS=PN/5646992&RS=PN/5646992>

Structure of the Settlements

The structure of this agreement was designed to allow both parties to get IP protection in place for the Glassey addition's to the Confidential Courier product. This mandate came directly from Datum's Attorney, John Cannon from Stradling Yocca in Orange County.

Summary of IP Owned

The technology rights that Glassey and McNeil own are technology rights to the differences between the original Confidential Courier patent's (US 5646992) coverage and the Amended Patent under US 6,370,629. The following excerpt from the DEFINITIONS section of the agreement structures these IP's.

SECTION TWO DEFINITIONS

2.1 The Assembly. Distribution and Use of Digital Information Patent: U.S. Patent No. 5,64,992 issued to DDI on July 8, 1997 for certain data and file protection and encryption technology. One of the products produced under this patent is called the Confidential Courier, which is described as an electronic transmittal envelope which can be opened only by specifically designated persons having the encoded passwords.

2.2 Controlling Access Patent: A US and certain foreign countries patent pending covering the expansion of technology covered by the Assembly, Distribution and Use of Digital Information Patent to include the new technology of geo-positioning and time/data encryption with respect to digital data and file assembly, distribution, use and access.

2.3 Phase II Technology - Phase II Technology refers to the method of authentication, encryption and transmission of date/time and/or location data for the purpose of linking together two or more disparate electronic components, such that a trust model is established between them. Such physical elements must individually be capable of computational and cryptographic functionality, but computationally may be isolated from one another. Such electronic components must be physically secure, and communicate with each other over communications channel(s) which may themselves be insecure.

In the settlement Glassey and McNeil retain rights to the GeoSpatial Keying and GPS-II technologies for the relicensing of those IP's. Datum retains the license to use those IP's in Confidential Courier Products.

The settlement doesn't however prevent Glassey from exclusively reimplementing the ConfidentialCourier model based on new technologies which makes it exclusively the property of the Glassey Recovery Efforts. That has already been completed and there is a new digital envelope model which is time-and location controlled and which can use the full scope of Glassey's new Control Language to provide these object controls.

GeoSpatial/Temporal Information Controls – what are the controls and what is ‘information’

GeoSpatial IP controls the adding of location-controls for opening and closing or operating on digital objects which can be data objects in memory or bit-wise control registers in a control or other digital system based on location or time parameter.

The scope of this includes all Digital Navigation and Voice Interface's to them. Likewise it includes other controls like Rail Tracking and Fleet Control Systems.

Protected IP: Specific/Range of time and locations

The controls provide the ability to specify a time in the form of a Specific Instant, a Range of Instants or Other Control based accessing of that stored information. The negative is also true and provides for the ability to lock-out access in all times but the specified one.

This enables a whole world of product services including regional/location based coupons in addition to the products listed here. These services are key to the distribution of media to a specific address or the establishment of an encrypted channel to a 'secured location specific' service inside a mobile device.

Physical, Logical and Virtual Locations or Time's

Likewise the same is true of Location Codes, meaning physical locations, logical locations or virtual locations including station and network addresses.

From a programmatic manner, the use of a region specific control, i.e. that is “a system which uses a region-or-location control to trigger a function in a loaded process or trigger a connection or session type event”; these are all controlled under Claims #23-32 of the patent.

This creates what are called Object Level Controls

The claims provide a set of tools for provide location or time centric policy controls for systems and devices. These include locations which are represented in a physical, logical or virtual manner and as either discrete events or as collections of or ranges of events.

The same is true for time, it is controlled in a like manner and the controls allow for not only information to be transferred and accessed in a secure manner they allow many of the security and authentication feature needs of distributed systems to be implemented.

Some Specifics

For object-controls

Any files which are loaded into a digital memory and then indexed with a keying model as in claims #1-26 would also be covered.

The Digital Signature Management

The cryptographic processing of the data to extract the key control value for the location-specific control is what the patent covers. That said any system which passes check-summed or encrypted data between nodes and then qualifies that data arithmetically when it's received would constitute the checksumming. When this is done with a subscription basis this we also get the periodic influx of data (and this would include offline transfers as well).

Stored Information can include HW controls

Any information which can be controlled through the object-policy controls that these claims and designs create, would be "stored information". This includes Digital Control Systems which are controlled by writing and then verifying or continuously reading state or response information back from that registers or control port. This means that a single-bit or set of control registers that can be programmed and then interrogated are a controlled use of the patent.

Infringement Group #1

The first Infringement Group includes voice activated navigation systems based on PDA or Cellular Phones. Actual GPS Devices which were not cellular devices as well are addressed in the second group.

Infringement by cellphone/GPS Navigator Systems

In Cellular systems it is important to understand that the handset's are actually an amalgam of technologies and are created on a collection of chips. One of those Chips is a GPS receiver which is interfaced to a 'serial port' inside the handset so it can securely send data to the phone set.

For these systems each 'voice object' – i.e. each direction component which is used to provide instructions to the User is controlled under this patent. The messaging objects used to interact with the user are the technology controlled.

The claim that all objects are not encrypted is in fact wrong. Most all of the digital objects have a checksum or other hashing system to insure proper transmission and reception. This process when used to control an action in the UI based on a physical location is what the patent(s) control.

Nomadic/Cellular Systems: The Infringing Process

The voice data being taken through the A/D is converted to a digital data object and then hashed and encoded as being part of a particular device interface. This creates a secured location control statement which when used to control another function or goal within a digital system. This would violate the controls #27-32 of the 6370629 patent.

The same controls also come into play each time the phone or device sends another voice navigation command to the play-back interface of the device. The digital directions themselves are the object's being controlled by the location codes.

This pertains to voice-based navigation controls NOKIA, SAMSUNG, SONY, MOTO, APPLE, RIM/Blackberry are all in direct violation of our patent when they provide voice based GPS navigation services.

(~infringement of 1B-3B devices globally)\

Infringement Group #2 - Appliance Type Systems

End-user GPS Navigator devices

Mobile Devices like GARMIN, MAGELLAN and TOMTOM all violate this with their upload of data and with the new addition of voice interfaces to their systems, they are also violators in the same ways the cell phone's are. This also is covered under #27-32 of the patent.

This infringement is based on the 'device' accessing specific locations of memory which are stored inside it to play back certain messages based on 'event alarms' which are created in regard to reaching some specific location.

MSDN GPSID – GPS Intermediary Driver Service

It also controls the programming of virtual devices with Microsoft's MSDN GPS toolkit because of the location specific services these allow client's to produce and sell. Likewise secured DNS with encrypted transport of the zone files to specific end-node's which represent locations in a physical network.

(~infringement of 600M devices)

Ford and GM Nav System Infringement

The same is true for the Ford and GM Navigation and Voice Interfaces for their new vehicles as well.

Bus and Transit Control Enunciator's

Most busses today used in mass transit have these new enunciator's which read out a location when the bus passes that point. This process violates the same control's the claims protect above.

Mobile Fleet Navigation Systems may also be impacted depending on the process that is used to intake the location specific data including the data update or map lookup process, the message selector and the response-element trigger in the navigation systems.

Devices like GARMIN, MAGELLAN and TOMTOM all violate this with their upload of data and with the new addition of voice interfaces to their systems, their also violators in the same ways the cell phone's are.

(~infringement of unknown market size but globally is probably several hundred million systems,)

Infringement Group #3

RFID Location Control/Tracking Systems

When location-sensor driven controls are then used to select digital objects for replay, we have a location specific object controlling as the patent covers. This is true because a stored information point could be a hardware based system which produces an information stream.

In a programming sense, this control process would be used to create different charge models relative to who the carrier was – and is an up and coming feature set that the cellular manufacturers are trying to use to allow multiple carrier devices to operate seamlessly and select preferred carriers based on which location they were using.

It is the control object that is the functional controls for these features which are in this instance, the stored objects being selected.

Train and Cargo Container Tracking Systems

Another use of this type of technology is in RFID based sensor devices which are used to cryptographically assure a specific device is at a particular location which triggers the

Infringements and GeoSpatial Controls – US 6370629

creation and sending of a message based on a stored 'response model'. The stored part of this process involves the construction of a pre-defined information message which is then transmitted to a server program as the end-point or relying party.

This violates claims #27-32 of the issued US Patent and is in use by every major Rail System/Freight Shipping Operator's in the US and globally today. They use it for car tracking and route scheduling for freight management and for tracking of Shipping Containers. These technologies allow the reduction of human workforce requirements to manage the inventory and routing control for their freight assignments.

In addition the "Controlling Access to Stored Information" can also be 'programmed responses to digital objects which cause real-world effects and to set alarms in Custom's processing of freight and LTL shipping.

Infringement Group #4 – SW based Systems

SW based Infringer - Location Based Systems

A number of Cellular-Desktop firms are now producing what are referred to as a suites of Location Based Services, that is ones which can be controlled by aspects of location and which provide all the security necessary in today's world.

SW based Infringer - MSDN GPS Tool Kit for Embedded Windows.

A software toolkit for implementing Location based services which are triggered by location also infringes in that those executables are all digitally signed as part of their transmission, and installation into the Phone/Mobile Appliance device which the tool kit then provides control of.

SW based Infringer - Email Application Security - Voltage.COM

Additionally software systems like VOLTAGE.COM's "Email-Address based encryption" also violates the patents by using location codes (addresses on a network). This is because 23-32 also cover 'Virtual Addresses' as well as physical locations.

This is very important because the claims actually provide for the idea of either specific locations or "within or without some defined area".

A whole package of communications with their lawyers (Stanford's Wilson Sonsini) about how this is not true is available as well. That one will require litigation to clean up although I can get to the named partners at Wilson Sonsini.

Infringement Group #5 – Streaming Content with Location Controls

Many types of streaming content are in place which now has extra security added to them. It is this additional security which controls the location and time of access or event-signaling. This will affect companies like APPLE and their iTunes product service, and CABLE TV Vendor's who use 'on-demand controls' as part of their services. Likewise many other MEDIA FILE type delivery systems which have been layered on the NETWORKING MODELS to enable their functionality also because of their layered use of indirectly infringing technologies infringe by themselves.

Appendices A – US Patent 5,646,992 Abstract

United States Patent
Subler , et al.

5,646,992
July 8, 1997

Assembly, distribution, and use of digital information

Abstract

Hierarchically organized graphical representations of items and groups of the items of digital information which are available to be ordered by a user are displayed. The user interactively explores the representations and selects items or groups to be ordered, using a pointer. While the graphical representations are being displayed, a list of items or groups which have been selected for inclusion in an order is also displayed. Software is executed which automatically determines the configuration of the computer, and matches the configuration with the stored configuration information prior to the user placing an order. A user may automatically be given access to items in a later revision of the medium if the user had access to the items in an earlier revision.

Infringements and GeoSpatial Controls – US 6370629

Inventors: **Subler; Ronald J.** (Charlestown, MA), **Hastings; Thomas Mark** (Lexington, MA)

Assignee: **Digital Delivery, Inc.** (Bedford, MA)

Appl. No.: **08/126,217**

Filed: **September 23, 1993**

Current U.S. Class: **705/53 ; 380/281; 705/26; 705/56**

Current International Class: G06Q 10/00 (20060101); G06F 1/00 (20060101);
G06F 21/00 (20060101); G11B 20/00 (20060101);
H04L 009/00 ()

Field of Search: 380/3,4,5,9,10,21,23,24,25,30,49,50,63

Appendices B – US Patent 6,370,629 Abstract

United States Patent

6,370,629

Hastings , et al.

April 9, 2002

Controlling access to stored information based on geographical location and date and time

Abstract

Access to stored information by a user is controlled by comparing an actual geographic position and/or an actual date/time with a geographic region and/or a date/time interval within which access to the stored information is authorized. The actual geographic position where the stored information is located, and the actual date/time can be determined, for example, based on signals received at a receiver supplying reliable position and time information, such as a GPS receiver. Access to the stored information is authorized if the actual geographic position and/or date/time falls within the authorized geographic region and/or date/time interval. The position and date/time information supplied by the receiver may be cryptographically signed and encrypted.

Inventors: **Hastings; Thomas Mark** (Lexington, MA), **McNeil; Michael E.** (Felton, CA), **Glassey; Todd S.** (Scotts Valley, CA), **Willett; Gerald L.** (Malden, MA)

Assignee: **Datum, Inc.** (Bedford, MA)

Appl. No.: **09/182,342**

Filed: October 29, 1998

Current U.S. Class: 711/163 ; 711/153; 711/164; 713/189; 713/193
Current International Class: G06F 1/00 (20060101); G06F 21/00 (20060101);
H04L 009/00 ()
Field of Search: 340/988,992,993,991 380/7,25 713/200,189,193
711/163,164,147,152,153

References Cited [Referenced By]

U.S. Patent Documents

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<u>5553143</u>	September 1996	Ross et al.
<u>5640452</u>	June 1997	Murphy
<u>5646992</u>	July 1997	Subler et al.
<u>5754657</u>	May 1998	Schipper et al.
<u>5757916</u>	May 1998	MacDoran et al.
<u>5799082</u>	August 1998	Murphy et al.
<u>5922073</u>	July 1999	Shimada
<u>5987136</u>	November 1999	Schipper et al.
<u>6046689</u>	April 2000	Newman
<u>6057779</u>	May 2000	Bates
<u>6057799</u>	May 2000	Bates

Primary Examiner: Nguyen; Than

Attorney, Agent or Firm: Knobbe, Martens, Olson & Bear, LLP

Appendices 3 – Glassey GeoSpatial Control Language and Libraries

“This invention is a language and control system using a new and novel method adding physical and virtual “where and when” control’s to digital objects or documents”.

The invention provides a language for using the system specified under US Patent 6,370,629 – a system and process for the creation, verification and use of keying services for cryptographic functions based on location or time data whether virtual or physical in nature.

This system allows for documents and processes to be triggered inside a computer based on a physical or virtual location. That is to say when for instance a computer was taken into a specific neighborhood or area of the world, certain processes could be triggered or evidentiary tokens built to represent any of the data objects time-stamped or otherwise with the system.

This process allows for hybrid systems to provide controls as well as transaction token generation for computers, their documents, and their peripherals.

For which a principal claim would be a system that transfers time data in a format and process such that the technological origin and quality of the time data can be used in the system for supporting decisions as to.

1. Programming or Policy Language Used in the controlling of access to or logging of access to a document or for administering network or digital rights entitlement.
 - a. As part of a cryptographic process or other key data use for opening or closing a digital document; and expiring access under local or remotely implemented policies. (A Document in this instance is a computer file or data structure and or stream, that contains digital data therein including but not limited to Cryptographic Envelopes and XML Data, Digital Media Files, and other Data Representation Protocols and Contents)
 - b. This includes being used by the cryptographic system in-place as a key data element – which can be used in document control and access management for all digital files including multimedia ones.
 - c. This includes being used by the system for policy and use access in normal or extended access modes.
 - d. Also for use in watermarking processes to permanently identify the “when” of a digital instrument or document.
2. Enabling a “controlled process” or processes
 - a. That is the triggering of decisions by passing the appropriate time token to the decision making process.
 - b. This process will also make statement as to the quality of the time data itself as well to allow for interoperability between timing centers when treaties or other opportunities exist to support these.
3. Attesting to the National Origin of a Digital Instrument or Document

- a. This is also to be used in identifying the where of an item by indicating the point of origin or processing of a particular timing laboratory of a specific nation.
- b. This use supports the requirements for creating 'digital evidence' in most if not all Countries that have such a standard's Jurisdiction.

In its Simplest Form

In its simplest form the system's purpose is to create a set of cryptographic keys which are composed of signed or unsigned time and location data, whether actual or virtual locations.

The location data can come from a GPS or other position sensing device that is securely piped into a data processor. The location data could per claim's 28 and 29 of US patent 6,370,629 also just as easily represent a devices address on a data network. Hence GeoSpatial keying can be used to secure network data traffic and messages as well as control the policy of the access control lists.

Principal claims

- 1 A method for controlling or logging access to stored information consisting:
forming a policy associating said information with authorized geographic regions and authorized lime intervals cryptographically signing said policy and said information;
storing said signed policy together with said signed information;
providing a password for unlocking said policy;
determining an actual physical geographic position said stored information is located based on signals received at a receiver, device or system supplying reliable position information; or software interrupt issued as a notifying signal of an "arrival event".
determining an actual time;
cryptographically signing at least the newel geographic position and the actual time at the receiver;
verifying the signature of the actual geographic position and the actual lime:
comparing said actual geographic position and said actual time with said authorized geographic regions and
authorized time interval of said policy; and
permitting access to said stored information if said actual geographic position and actual time falls within said authorized geographic regions and authorized time interval of said policy.
- 2 The method of claim 1, wherein position and time are determined through a Global Orbiting Navigational Satellite System, or other external digital positioning resources.
- 3 The method of claim 1, wherein position is deter-mined through an inertial navigation system,

Infringements and GeoSpatial Controls – US 6370629

- 4 A method for controlling and logging access to systems or stored information, the method comprising of:
 - (a) determining a position,
 - (b) cryptographically signing data comprising at least a representation of the position, whether that be a physical location in real or modified space or virtual one as in a network address, or location in a switching matrix;
 - (c) verifying the signature of the data comprising at least of a representation of the position;
 - (d) determining that access to the stored information is authorized and logged at the position; and
 - as (e) permitting access to the information based a least upon (c) and (d)
- 5 The method of claim 4, further Comprising
 - (f) providing the cryptographically signed data to an information accessing device or system, whereto (c) and (e) are performed by the information accessing device or system/resource.
- 6 The method of claim 4, further comprising;
 - (g) identifying a token
 - (It) incorporating ties token in the data that is cryptographically signed; and
 - (I) verifying that the cryptographically signed data comprises the token,
 1. The method of claim 6, wherein (g) and (i) are performed by the information accessing device network address resolver.
 2. The method of claim 6. wherein (a), (b), and (Ii) are performed by a position determining device network address resolver.
 3. The method of claim 6, further comprising (j) providing the token to the position determining device or network address resolver.

GeoSpatial and Temporal Policy Functions

The underlying mechanical services predicated on Claims 1-32 of revised US Patent 6,370,629, "Controlling Access to Stored Information" provide the technology for certain GeoSpatial & Temporal Software based cryptographic functions which are in turn used inside larger processes to provide System's Control Policies for managing all levels of access and logging information, whether in local of remote storage models.

Bolt-on Policy Controls: These services allow for the implementation of a set of policy controls which constrain access to information at the file level or systemic level by location and time of access pertaining to events or times in the real world and those in a virtual world modeling events in the real world. The controls are part of the GeoSpatial

Infringements and GeoSpatial Controls – US 6370629

Additions to the eSign Toolkit and provide for its novel functionality in addressing both a transaction authorization and recording process based on these controls and the policies which can be implemented from them.

Location means: Location-centric (i.e. pertaining to location – real or virtual) can be predefined for use in controlling access to information whether at the systemic, network, or file system access-control level, and while this is not all of the possible logical controls and combinations it represents a sampling of the more popular ones.

Temporal Policies: The Temporal Policies (i.e. pertaining to a discrete time, an interval of time, or a limit in time, or the time of the occurrence of an abstract event-state) allow for files or data connections or other events to take place based on a set of time-based abstractions. These include keywords to qualify the temporal policies including (At, Till, When, etc.)

Action The **Action** is the part of the geospatial or temporal policy service that defines what happens, generally the Action is to ALLOW or DISALLOW access or some other policy controllable state per the additional string of arguments.

Locus The Location of a policy event or Action. The Locus can be a PhysLo, VirLo, JudLo, or free-form location or state token

The intent is to allow the creation of a modular set of rules and controls for implanting policy at the object or entity level.

Action(Argument1, Argument2, ..., Argument X)

Basic policy is to have a defined action constrained by a set of Arguments and Term Tags. Policy can be negated for inverse effect modeling as well for any rule set. Basic Policy is based on two “Actions”, those being ALLOW and DISALLOW. The Arguments to Action and the associated tags would be defined on a per use basis.

Allow(At, In, Once, Never)

Allows access to the controlled object at some specific time and in some particular physical location only.
Has two predefined special forms or states ONCE and NEVER . Once is a permission to have some specific policy control enable a one time access, and Never is a negated form with an alarm handler built-in. This allows individual objects to alarm when improperly accessed or access time's and locations are invalid. Other states can be supported as well.

Once (State, Event, Control)	Execute or allow Once the specified Event Code and Control ID. CREATES EVENT STATE
State, Event, Control	Globally defined variables in the installation of the policy controls on any given system. Allows for customization of event types.
Alarm(Steps)	Follow STEPS in ALARM States
Steps (Email, Page, Shutdown)	Steps for Alarm Functions include emailing and triggering pager systems, and in the automated closures or shutdowns with state-freeze for transaction systems.
Never (Once, Alarm)	Negate performing the Event Specified in establish an ALARM process for it should it occur. Creates EVENT STATE.
At (Time or Event, State)	Allows specification of a real or virtual timing instance or interval or time. May be used in the positive or negative to create enablement or suppression & prevention controls.
In (Location or Event, State)	Supports PhysLo, VirLo, and JudLo tokens as well as statement locations or GPS Data Stream or other position indicating process including user-declared. <u><i>Virtual Locations may be as simple as declaratory or based on the calculation of IP Address or MAC Address deployment.</i></u>
Around (In, +/- Delta)	A method of setting a relative or virtual distance from the location code for the policy control which accepts location data from streaming GPS or other position indicating systems like DNS for network address resolution. This allows for a policy control language wherein "IN AND

AROUND (www.domainname.com)” would be a legal policy control statement in the same way IN AND AROUND “LAT” + “LONG” within STD could mean the taking of location data as a physical location by statement or from some device which indicates the location like Inertial Guidance or GPS Systems. Virtual Locations may be as simple as declaratory or based on the calculation of IP Address or MAC Address deployment.

Policy Grant and its term

Terms of a unqualified grant of a policy like Allow(Once)for instance, lasts for the period of the current session, and then when that is terminated, any unused Allow(Once) tokens or entitlement’s held by the process, expire and are of no value or use. At such time as another access at a later session is undertaken, then said rights have to be re-granted by manually setting them up as part of a users profile. This precludes the unintentional use of the ‘power of a legal instrument’ as a ‘computer error’.

The policy modules are implemented on software based cryptography which also can support input or modularization by the use of hardware (HW) cryptographic co-processors.

Policy/Controls: Allow(At,Till,Always,)

The following are control services and software (sw) modules which implement these controls and services. All policy controls are based on a session-long entitlement and all limiting or delimiting controls are based on this architecture. Files controlled with these modules meet the access rules set in the statement model (covered under Claim 22 US Patent 6370629 rights).

Allow(At) provides a policy control for allowing a digital object to be decoded or operated upon or accessed at a specific time. **Allow(When)** also works in the same manner.

Likewise the **Allow(Till)** control provides access during the current session until the “Till Condition” is satisfied. AllowTill supports asynchronous and synchronous Events to meet all types of core policy and control uses.

Infringements and GeoSpatial Controls – US 6370629

AllowTill then is essentially an open access right or entitlement to some digital object until some point in time or other predefined Digital Event occurs. It provides a method that allows a digital document's cryptographic locks and acknowledgment tools to be opened until the time expires or event specified starts or starts and completes.

Allow(Always) is just what it appears to be but must be reset within each operating session. AllowAlways is essentially an open access right or entitlement to some digital object or that allows a digital document's cryptographic locks and acknowledgment tools to be opened always.

Allow(in) [or around]

Used as both a primary policy and secondary policy component qualifier, A secondary argument for Allow(In) provides location or event specific controls as well, for instance, one could use Allow(In=Location) where Location = PhysLo, VirLo, JudLo, or Pre-Defined Global Event.

The In Tag also has a negated form as well (NotIn) to create policy controls for locking functionality in or out while in or not in some specific or virtual state or place.

Allow(Once)

Allow opening of file or object one time only. Allow(Once) is a control that is added to basic processes to allow for their execution one time as part of any workflow. This allows for clean startups and configurations to be done with cryptographic controls of their policy and logging data.

Allow(Once) can be used within a session to allow any object or file to be opened at any time, one time.

Terms of a unqualified grant of Allow(Once) lasts for the period of the current session, and when that is terminated, any unused Allow(Once) tokens held by the process, expire and are of no value or use.

Allow(At+Once) and Allow(Till+Once)

Allow opening of file or object one time only at designated time. If client doesn't request this at the specific time (+/- some delta) then the opportunity is lost.

Allow(At+Once) allows for the defined event to occur or file to be opened or written to. This event can happen as soon as the client requests the write to the policy-controlled file, but only one time.

Disallow Function

Each of the above Allow Functions has a negative form as well called Disallow which executes a denial of access until some specific time or the data is loaded into a particular place as in embargoing trading or equal access processes in network based trading systems and the like.

Disallow(At)

The Disallow(At) function allows a policy model of terminating an access model at a specific time or virtual time instance. The “at” to be disallowed at the occurrence of can also be a defined interval or repeating instance.

Disallow(Till)

The DisallowTill function allows a policy model of embargoing access to something data object or its content until some time or event occurs in the real or virtual worlds. At the time of the event’s occurrence the policy requirement for the current session will be met and the ‘embargoed event’ can occur then.

The “till” to be disallowed until the occurrence of can also be a defined interval or repeating instance

Disallow(In)

The Disallow(In) function allows a policy model for embargoing access to something data object or its content when located in some physical or logical location or when ‘in some predefined state’ as well.

Other policy controls like Allow(Otherwise) can be implemented as well, and are intended but not shown here.

Exhibit 13 –Claims Summary Documents

The following CLAIMS SUMMARY pertains to claims never licensed to Hastings and DDI for use in the final GeoSpatial enabled, amended 992 patent which Glassey and McNeil assert was not filed, but a new patent barely referencing the existing patent or its methods was actually what was filed.

As such 629 is not an amendment to the original work (992), but a whole new patent barely representing any of the technology by control or other technical descriptions, and as such the ASSIGNMENT executed pertains to another set of IP, not what is represented in the 629 patent.

In fact most of the controls, and especially those of claims #24 through #32 were added to the authorized claims after the assignment agreement, and are based on technological controls specifically not licensed to DDI or its successor's in any form.

Claims

- 1) Damages based on the fact 'that the agreed upon settlement pertained to a description of system and technology IP's between GLASSEY, MCNEIL and DATUM.
- 2) The initial settlement-agreements (and there are three of them) assigned PATENT OWNERSHIP rights to DATUM in return for its acting as the Custodian of the patent's in all of the Jurisdiction's those were to be filed in. DATUM was to formally notify the PTO and all PTO's they were to file this IP before that GLASSEY and MCNEIL held certain rights to it. Failing to do so is likely another matter as well, especially if those parties are located outside the US since that would invoke the Foreign Corrupt Practices Act and the Computer Fraud and Abuse Act as well as the Conspiracy claims under the Federal Title 18 section §137 standard.

Under that assignment status any time ANY change or sale of those rights, or filings before those Patent Authorities is made DATUM must notify GLASSEY and MCNEIL so that they may participate or litigate claims of breach or failure to perform under this Fiduciary Role. We believe that in addition to any other claims here that the sale of any of that IP so controlled which was consummated across an electronic transport would as such violate the Computer Fraud and Abuse Act as well as the Title 15 Tortious Interference and Fiduciary Responsibility Statutes as well.

- 3) GLASSEY has a separate and additional claim in re: the two Atomic Clocks which we allege (SYMMETRICOM??) has been operating for the company that 'converted those properties without authorization' from the Estate of CertifiedTime. We assert that this final item is an FCPA violation.
- 4) We further that allege that it appears likely now that AMANO corporation, the party admitting that they "seized the property to satisfy a commitment to the Government of Japan" collaborated with CITI Financial to settle a minor claim CTI had against a lease-back on those clocks outside of US Bankruptcy 01-54207-MM which constitutes an action under the US Bankruptcy Code as well. SYMMETRICOM'S actions in supporting those "conveted" clocks becomes a serious action herein.

Logic

GLASSEY and MCNEIL were granted specific rights which they were to be allowed to use in all of the independent Jurisdictions that the patent was filed in. GLASSEY and MCNEIL were to be allowed to refile the patent's extensions in their own core works without opposition. GLASSEY's and MCNEIL'S Statement of Rights against the patent was also to be filed by (SYMMETRICOM??) with the PTO to assure proper filing which we also want done.

- A. Also, there is intentionally no language in the agreement between the parties to limit the scope of those Joint Rights to the US patent only, meaning that GLASSEY and MCNEIL, as part of their settlement were to be accorded status as co-owners of the IP with DATUM (now SYMMETRICOM) being responsible for all of the maintenance fees for all filings and the maintenance therein. This is based in the "blanket assignment of the Custodial Role" to DATUM, one which was inherited by SYMMETRICOM when it acquired those liabilities.
- B. Further there is an issue with DATUM'S excluding GLASSEY and MCNEIL from the Patent Office's Office Action process which prevented GLASSEY and MCNEIL from defending those claims which were in the original filing that were disallowed. The assumption of the CUSTODIAL ROLE makes SYMMETRICOM totally responsible for those damages.

The estimated costs today of recovering that EU filing for the IP are approximately \$1M USD we estimate today. The ongoing maintenance of the US and foreign patents over the next decade is probably closer to \$1M-2M USD. I have a model with the six law firms I would retain in the various jurisdictions so that number is pretty accurate. It (the IP Support Program) includes a strong effort to protect and defend that IP from the numerous parties who are now violating those rights.

- C. Additionally the Settlement agreements require that GLASSEY and MCNEIL be notified in the instance of any things your client wants to change. i.e. before doing anything to the registrations the contract requires that we be formally notified including but not limited to sales or licensing of the IP or any changes to its registration.

As such, under those terms SYMMETRICOM had no right to sell off anything other than its rights to anyone, and it or its successor bear full responsibility for maintaining and protecting the patents, including all fees and any litigation against the patents which could impugn GLASSEY and MCNEIL'S rights. Any sale of such IP which crossed State or International boundaries would be one which if consummated across electronic transports would be actionable under the model the US DoJ has put in place by its filing criminal charges against the MySpace Hanging Incident parties (US v Drew). This as such is a separate instance of a violation of the Computer Fraud and Abuse Act.

- D. There is also a mechanical responsibility as the "maintenance payer" (i.e. assigned Custodial Role) to defend that IP as well. Something that we figure is worth about 2M in today's legal services market.

Settlement Terms

The settlement proposal is broken into several pieces to address the claims independently.

Patent Maintenance and Support Fees

GLASSEY and MCNEIL need a simple \$8M for the damages to date and the recovery and completion of the EU patent, and the ongoing maintenance of the Patents.

How the break-down is over the EU patent and the general trimming of the IP defined in the original filings without compensating us for the difference in what we settled on. The fees noticed in the \$8M described above also represent the recovery costs for the EU Filing and its maintenance for the next decade.

As part of this Settlement GLASSEY and MCNEIL will allow these funds to be paid over a period of 4 years to make this easier for SYMMETRICOM to handle. Additionally SYMMETRICOM also will pay for all legal fees to accomplish this new settlement as well including LW fees.

As part of the Settlement SYMMETRICOM will also 'walk away' from all claims to the IP specified in the Co-Inventor's Agreement and the Trusted Timing Infrastructure Agreement and the derivatives from it so that GLASSEY and MCNEIL can pursue those IP issues ourselves.

IP Assignment

Pending the successful completion of these negotiations GLASSEY and MCNEIL will take over the prosecution of the various violator's to the defined IP's which SYMMETRICOM has failed to prosecute or ignored as part of a larger business operations, both of which caused and continue to cause GLASSEY and MCNEIL significant damages in protecting their rights to those IP's.

To facilitate this process SYMMETRICOM will assign the US patent and those other patent's filed under the Controlling Access IP's still in effect to GLASSEY and MCNEIL, at which time GLASSEY and MCNEIL will then assign back to SYMMETRICOM those rights necessary to allow Symmetrcom to continue its use of the IP to the same limits as put forth in the CO-INVENTOR & Trusted Time Interface/Technology agreements which created the original distribution of rights and responsibilities.

Atomic Clock Matter Settlement

We will give SYMMETRICOM a walk from GLASSEY's claims against it under the FCPA issues in operating our properties for the party who stole them in Japan if SYMMETRICOM will provide certain equipment to the US Timing Foundation, an entity designed to provide public access to the US Time Base.

As part of this SYMMETRICOM will identify the 'party they have been operating those 'stolen clocks' for in a formal declaration and they will in that 'confession' state that they now understand that those clocks were sold by the US Courts to GLASSEY, and that AMANO Corporation represented them as 'their own property' to SYMMETRICOM. We also insist that this declaration will be signed under the rules of Perjury in the US so to insure its admissibility into the US Courts.

Symmetricom would further provide the United States Time Server Foundation with \$1.2M in the form of a donation which will be 5071A atomic clocks, batteries and GPS receivers. We have filed the Foundation as an NPO so there would likely be a tax credit for this donation.



Assignments on the Web > Patent Query

Patent Assignment Abstract of Title

NOTE: Results display only for issued patents and published applications. For pending or abandoned applications please consult USPTO staff.

Total Assignments: 4

Patent #: [6370629](#) **Issue Dt:** 04/09/2002 **Application #:** 09182342 **Filing Dt:** 10/29/1998
Inventors: THOMAS MARK HASTINGS, MICHAEL E. MCNEIL, TODD S. GLASSEY, GERALD L. WILLET
Title: CONTROLLING ACCESS TO STORED INFORMATION BASED ON GEOGRAPHICAL LOCATION AND DATE AND TIME

Assignment: 1

Reel/Frame: [009555/0985](#) **Recorded:** 10/29/1998 **Pages:** 4

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignors: HASTINGS, THOMAS MARK	Exec Dt: 10/28/1998
MCNEIL, MICHAEL E.	Exec Dt: 10/27/1998
GLASSEY, TODD S.	Exec Dt: 10/27/1998
WILLET, GERALD L.	Exec Dt: 10/28/1998

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Assignment: 2

Reel/Frame: [010456/0059](#) **Recorded:** 12/15/1999 **Pages:** 2

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignor: [DIGITAL DELIVERY, INC.](#) **Exec Dt:** 11/08/1999

Assignee: [DATUM, INC.](#)
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Assignment: 3

Reel/Frame: [012721/0294](#) **Recorded:** 03/26/2002 **Pages:** 9

Conveyance: SECURITY INTEREST (SEE DOCUMENT FOR DETAILS).

Assignor: [DIGITAL DELIVERY, INC](#) **Exec Dt:** 07/07/2000

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Assignment: 4

Reel/Frame: 014120/0637

Recorded: 06/02/2003

Pages: 15

Conveyance: MERGER (SEE DOCUMENT FOR DETAILS).

Assignor: DATUM, INC.

Exec Dt: 02/03/2003

Assignee: SYMMETRICOM, INC.

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Exhibit 14 – DATUM RESPONSE LETTER

This exhibit contains a Letter to GLASSEY from DATUM/BANCOM Division President DAVE ROBINSON. Robinson later lost his job to MARK HASTINGS in the Internal Governance War which happened as MARK HASTINGS took his role within DATUM.

What is important in this letter is ROBINSON's commentary to GLASSEY on the Trusted Timing Infrastructure and its value. Additionally this document was a response to GLASSEY and MCNEIL when they proposed that DATUM needed to come up with a compensation model for DATUM's use of the GLASSEY Trusted Timing Infrastructure.

DATUM in its actions proved it was neither interested or willing to come to any terms without litigation and this flowed from the highest levels downward from corporate management. The intent was to use IP they didn't own and to prevent Glassey and McNeil from any use of the IP they created.

Todd,

I have a vision - the creation of THE global standard for commercial timing of documents and transactions. Datum's part will be the timing boards, master clocks, and control computers. The yet to be formed 'Global Timing Services' will give this vision its global perspective - the time service from this operation will transcend the nationalistic time services and legislation; and become the basis of a ubiquitous global timing system, that will be non-nationalistic, servicing global commerce. The TTI is a small part of that vision. I believe that GTS could become the operator of a commercial GPS system and could ultimately be the 'root' source of timing for all the Telcos and Networks. We could distribute our time through radio stations to wrist watches and microwaves. Ahhh, on and on. But first things first. We have to walk before we run.

Frankly, I don't think the money is as important as defining the way we work together. Sure money is important, but we are both faced with ways of making money out of this that we can't even visualize. It will all come, the important thing is to overcome the wide disparity between our respective compensation models - and, as I said, perspective on who does what.

There are several overriding sticking issues:

The idea that GMT can represent itself as an extension of Datum. There are standard means defining a commercial relationship - VAR, royalty, etc; but Datum is a large, publicly traded company. We can not let GMT take actions that might be construed as committing the company; nor act in between the company and its customers. In general, a relationship can not be described with the words 'partnership' as that has a specific legal connotation. I know the term 'strategic partner' is bandied about; but that must be covered by a specific agreement that has been reviewed by the legal guys.

GMT's lack of awareness of some business fundamentals. In particular, there is big difference between prospects or contacts; and customers. Further, what generates money is the process of obtaining a sale (creating a customer), supplying product or services, and getting paid. Compensation is derived from that process. The compensation plan has to be based on payments coupled to income.

The Compensation wish list document paints a very erroneous picture of what are VARs and OEMs. Generally VAR's do not sell a company's product by itself, they sell that product packed with their own value added component. In fact, they are usually constrained to not sell product by itself since that is the function of Sales Representatives

A key aspect of an OEM sale is the close relationship that must exist between the company supplying the product and the OEM. If some outside party, like GMT facilitates the sale or ongoing relationship, then they can be compensated by a commission.

I believe it is extremely important that we work together, we have a timing solution and you have an excellent grasp of the market. I have attached a spread sheet that puts in estimated amounts for VAR discount, commission on OEM sales, Royalties, and 'consulting' payment. It shows GMT getting \$ 10M by the end of 4 or 5 years. The counter was the compensation wish list. I'm not bothered so much by the dollars but by the sticking issues mentioned above that would kill the deal.

Let's hope we can get past this. We need to get on with making our respective visions work.

Regards, DAVE

EXHIBIT 2

FILED
JAN - 7 2011

ALEX VALVO, CLERK
BY
DEPUTY, SANTA CRUZ COUNTY

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FILED BY FACSIMILE

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CRUZ

MICHAEL E. McNEIL and TODD S.
GLASSEY,

Plaintiffs,

v.

SYMMETRICOM, INC.

Defendant.

CASE NO. CV-165643

**SECOND AMENDED COMPLAINT FOR
DECLARATORY RELIEF, BREACH OF
SETTLEMENT AGREEMENT,
CONVERSION AND NEGLIGENCE**

JURY TRIAL REQUESTED

Plaintiffs Todd S. Glassey and Michael E. McNeil ("Plaintiffs") allege as follows:

IDENTIFICATION OF NAMED PARTIES AND THIRD-PARTIES

626/805831.3

SECOND AMENDED COMPLAINT FOR DECLARATORY RELIEF, BREACH OF SETTLEMENT
AGREEMENT, CONVERSION AND NEGLIGENCE - CV-165643

1 1. Todd S. Glassey ("Glassey") is, and at all times herein mentioned, an individual
2 residing in Santa Cruz County, California.

3 2. Michael E. McNeil ("McNeil") is, and at all times herein mentioned, an individual
4 residing in Santa Cruz County, California. To the extent the parties rights overlap "Glassey"
5 refers to McNeil and Glassey collectively.

6 3. Coastek Infosys Inc., ("Coastek") formerly a California and Delaware corporation,
7 was founded by Glassey in 1996 to implement Glassey's digital document security and evidence
8 tools.

9 4. Certified Time Inc., ("Certified Time"), formerly a California corporation, was
10 founded in late 1999 by Glassey to implement Glassey's Global Time Services ("GTS")
11 technology. Certified Time declared bankruptcy in August 2001 and Glassey purchased all of its
12 intellectual property and remaining tangible assets of the estate located outside the United States.

13 5. Plaintiffs are informed and believe and thereon allege that Defendant
14 Symmetricom, Inc. ("Symmetricom") is a Delaware corporation with its principal place of
15 business at 2300 Orchard Parkway, San Jose, California 95131.

16 6. Plaintiffs are informed and believe and thereon allege that Jason Book, Esq.,
17 ("Book") is, and at all times herein mentioned was, an individual residing Santa Cruz County,
18 California.

19 7. Plaintiffs are further informed and believe that Book held himself out to be an
20 attorney at law doing business first as a member of Bosso Williams, APC, and then as a member
21 of Book and Book LLC and purporting to act on behalf of Plaintiffs.

22 8. Plaintiffs are informed and believe and thereon allege that Bosso Williams, APC
23 and Book and Book LLC ("Book and Book") are a California Professional Corporation or
24 California limited liability corporation respectively with their principal places of business in
25 Santa Cruz County, California.

26 9. Plaintiffs are informed and believe and thereon allege that John F. Cannon, Esq.,
27 ("Cannon") is, and at all times herein mentioned, held himself out to be an attorney at law doing
28 business as a member Stradling Yocca Carlson & Rauth APC.

1 10. Plaintiffs are informed and believe and thereon allege that Cannon did, and at all
2 times herein mentioned, purported to act on behalf of Datum, Inc. ("Datum").

3 11. Plaintiffs are informed and believe and thereon allege that Datum was formerly a
4 Delaware corporation.

5 12. Plaintiffs are informed and believe and thereon allege that Datum was acquired by
6 Symmetricom on or about 2002.

7 13. Plaintiffs are informed and believe and thereon allege that Digital Delivery Inc.
8 ("DDI") was a Massachusetts corporation.

9 14. Plaintiffs are informed and believe and thereon allege that DDI was acquired by
10 Datum on about August 1999.

11 15. Plaintiffs are informed and believe and thereon allege that defendants DOES 1
12 through 100, inclusive, and each of them, are in some means or manners legally obligated and
13 liable for the obligations, duties and claims hereinafter set forth.

14 16. Plaintiffs are informed and believe that Does 50-100 are each the agent, partner,
15 employee and/or alter ego of one or more of the remaining defendants and in doing the things
16 herein alleged were acting within the course and scope of said agency, partnership and/or
17 employment.

18 **GENERAL ALLEGATIONS**

19 17. This action is properly venued in this county and before this Court because a
20 substantial portion of the events which give rise to the claims set forth herein occurred in the
21 county of Santa Cruz, in the State of California.

22 18. Glassey has been involved in computer science for some time.

23 8. His particular area of focus and expertise is digital evidence systems focusing
24 location and time infrastructure.

25 9. The proper calculation, transmission and recordation of time is a critical element in
26 many areas of computer science, a fact made even more critical with the advent of the Internet
27 and the many types of communication and transactions conducted using the Internet.

1 10. During Glassey's relationship with Coastek, Glassey realized that in addition to
2 the current development of document time stamping tools, that additional time controls would be
3 necessary to establish an appropriate evidence model.

4 11. These time controls include Glassey's trusted time infrastructure, clock reporting
5 models and evidence control practices as well as the physical system designs that implement that
6 technology.

7 12. Glassey initiated discussion with Coastek management and they agreed that it was
8 a critical element of the ongoing research and development, but asked that Glassey proceed and
9 develop the additional time controls independently.

10 13. In 1997, Glassey left Coastek to independently create a digital time management
11 technology for the addition in his previous document evidence systems, including, but not limited
12 to Trusted Time Infrastructure (generally "TTI"), Global Time Service ("GTS"), Glassey Digital
13 Time Stamp ("GDTS"), Geospatial keying controls and Glassey's Certified Timing Authority
14 ("CTA").

15 14. Coastek agreed that Glassey's independent development of the time controls
16 would remain his intellectual property.

17 15. McNeil, who at the time was a Coastek employee, also left to assist Glassey in the
18 development of the time controls.

19 16. On or about, October 1997, Glassey approached Datum to manufacture a
20 component of the time controls for Glassey's email and document control gateway that would
21 implement the time control technology.

22 17. Datum wanted to understand whether there were derivative businesses that it could
23 capture and as such agreed to undertake market research to determine the commercial potential
24 for Glassey's time control technology.

25 18. In November 1997, Datum and Glassey executed a mutual non-disclosure
26 agreement ("1997 Datum NDA") wherein Glassey believed that Datum agreed to not interfere
27 with Glassey's pre-existing commercial relationships and that, among other things, Datum would
28 hold in confidence Glassey's intellectual property.

1 19. After Glassey conducted an initial fact finding trip with the Vice President of
2 Marketing of Datum, Mitch Stone, Datum became enthusiastic about the commercial potential of
3 Glassey's time control technology.

4 20. On or about December 1997 Datum offered Glassey an independent contractors
5 agreement.

6 21. Glassey refused to enter into this agreement.

7 22. Glassey continued to work informally with Mr. Stone regarding additional market
8 research from approximately December 1997 until May 1998.

9 23. In May 1998, Datum entered into a short term agreement with Glassey (and
10 McNeil) ("Datum Consulting Agreement"). True and correct copies of those agreements are
11 attached hereto as Exhibits 1 and 2.

12 24. The Datum Consulting Agreement was in effect from May 4, 1998 to July 4,
13 1998.

14 25. During that time, Glassey did not conduct any research and development for
15 Datum in the development of any technology or products.

16 26. Glassey's time was spent exclusively on market analysis, again with the assistance
17 of Mr. Stone, to develop Datum's e-commerce division.

18 27. In early 1998 Glassey founded a new company called GMT.

19 28. At that point, the acronym "GMT" stood for Glassey Metrological Technology.

20 29. In April 1998, McNeil joined Glassey, first as an employee and later Glassey
21 offered him partial ownership in GMT.

22 30. Then Glassey and McNeil incorporated "GMT" which now stood for Glassey-
23 McNeil Technologies.

24 31. The purpose of creating GMT was to continue to exploit Glassey's time control
25 technology.

1 32. At the expiration of the Datum Consulting Agreement on July 4, 1998, Glassey
2 (and McNeil) negotiated with Dave Robinson, President of the Bancom Division of Datum,
3 David Young, CFO of Bancom, and Mr. Stone and ultimately Glassey (and McNeil) agreed to
4 work as independent consultants without a written consulting agreement subject to the
5 understanding that pursuant to the existing 1997 Datum NDA Glassey and McNeil (as GMT)
6 would own any and all intellectual property developed or communicated during the term of the
7 relationship.

8 33. In addition to the existing 1997 Datum NDA Glassey and/or GMT entered into an
9 oral agreement ("Oral Consulting Agreement") by which Glassey and/or GMT would identify
10 possible acquisition targets and facilitate Datum's due diligence.

11 34. Pursuant to the Oral Consulting Agreement Glassey and GMT believed that Datum
12 agreed to keep all third-party intellectual property confidential, including intellectual property
13 belonging to Glassey and/or GMT

14 35. At that point, Glassey and McNeil (as GMT) worked to further develop Glassey's
15 time controls, including time stamp systems, email gateways, and associated database services
16 and to develop the policies and protocols that would aid market acceptance for this technology.

17 36. From approximately, December 1997 onward Glassey, and later GMT, had other
18 commercial relationships for the propose of exploiting Glassey's time control technology.

19 37. One of those clients was DDI.

20 38. Glassey's relationship with DDI began with an exploration of using DDI's
21 Confidential Courier product as a component of Glassey's time control technology.

22 39. Later, DDI decided it wanted other aspects of Glassey's time control technology to
23 enhance the Confidential Courier product.

24 40. Initially, DDI executed a non-disclosure agreement with Glassey as an individual.

25 41. Later, DDI executed another non-disclosure agreement with GMT with respect to
26 the same scope of work.

1 42. In approximately July 1998 GMT and DDI decided to file a U.S. patent application
2 that would incorporate some of Glassey's time control technology with some of DDI's existing
3 Confidential Courier technology as embodied in an earlier U.S. Patent.

4 43. This new patent application eventually matured into U.S. Patent No. 6,370,629
5 (the '629 patent" or "Controlling Access Patent").

6 44. In order to better define the parties interests in the new patent application Glassey
7 and McNeil and DDI, on or about October 26, 1998, entered in a Co-Inventor's Agreement. A
8 true and correct copy of the Co-Inventor Agreement is attached hereto as Exhibit 3.

9 45. The Co-Inventor's Agreement defined the parties rights and responsibilities with
10 respect to compensation and ownership of the patent application and any patents that issue from
11 that application.

12 46. The Co-Inventor Agreement had a term of one-year from execution.

13 47. DDI did not pay Glassey (or McNeil) for their work with DDI.

14 48. In reliance on the protections in the Co-Inventor's Agreement, Glassey executed
15 an assignment of the patent application (Appl. No. 09/182,342) that matured into the '629 patent.
16 A true and correct copy of the Assignment is attached hereto as Exhibit 4.

17 49. Glassey did not participate in the prosecution of the application that matured into
18 the '629 patent.

19 50. Glassey introduced Datum to DDI and to Coastek in late 1998 due to Datum's
20 desire to acquire companies with existing complementary technology.

21 51. In November 1998, GMT executed a non-disclosure agreement with Coastek
22 ("Coastek Non-Disclosure Agreement") for the specific purpose of facilitating Datum's due
23 diligence and expanding GMT's use of the Coastek intellectual property (Coastek was dormant at
24 the time and had no ongoing operations or activities). A true and correct copy of the Coastek
25 Non-Disclosure Agreement is attached hereto as Exhibit 5.

26 52. GMT turned over to Datum various pieces of Coastek intellectual property for the
27 purposes of Datum's due diligence.
28

1 53. Prior to the turnover to Datum, Glassey included some of his own intellectual
2 property with Coastek's to make the company more attractive to Datum.

3 54. The Glassey intellectual property included the Certified Timing Authority
4 ("CTA").

5 55. The turnover of the Coastek and Glassey CTA intellectual property was pursuant
6 to the Coastek Non-Disclosure Agreement, 1997 Datum NDA and the Oral Consulting
7 Agreement between Glassey, GMT and Datum.

8 56. Datum decided not to acquire Coastek, but did not return any of the information
9 that GMT provided to it, including Glassey's CTA intellectual property.

10 57. Datum acquired DDI on or about July 1999.

11 58. After the acquisition, Glassey (and McNeil) through GMT built the TSAPI (Time
12 Stamping Application Programming Interface) which is a software specification for the structure
13 of a time stamp and the services which would enable its use for Datum pursuant to the Oral
14 Consulting Agreement.

15 59. Glassey and GMT do not dispute Datum's ownership of the TSAPI because it was
16 built pursuant to Datum's request and specifications and did not include any Glassey and/or GMT
17 intellectual property.

18 60. Thereafter, both DDI and Datum requested that Glassey (and McNeil) acting
19 through GMT start designing specific pieces of technology that were going to be incorporated
20 into the Datum product line.

21 61. Glassey (and McNeil) through GMT refused this request because GMT had its
22 own pre-existing document control architecture (this technology was part of Glassey's original
23 time control technology) and Datum's requests potentially required disclosure of Glassey's
24 intellectual property and Glassey did not want to create a dispute regarding ownership of that
25 intellectual property.

1 62. In response to Glassey and/or GMT's refusal to design the desired equipment,
2 Datum filed suit against Plaintiffs on or about August 20, 1999, alleging, among other things,
3 breach of contract, breach of the covenant of good faith and fair dealing, misappropriation of
4 trade secrets and proprietary business information trade libel and slander and declaratory relief.

5 63. To resolve the lawsuit, the parties entered into a several settlement agreements.

6 64. The parties to the first agreement were GMT, Glassey, McNeil and Datum. That
7 agreement "Datum-TTI Settlement" was executed by GMT, Glassey and McNeil (and approved
8 as to form and content by Book) on November 19, 1999. A true and correct copy of the Datum-
9 TTI Settlement is attached hereto as Exhibit 6.

10 65. The parties to the second agreement were GMT, Glassey, McNeil and Datum and
11 DDI. That agreement "Controlling Access Settlement" dealt with the ownership and use of
12 various technologies, some of which had already become U.S. Patents. A true and correct copy
13 of the Controlling Access Settlement is attached hereto as Exhibit 7.

14 66. Specifically, the Controlling Access Settlement gave Glassey and McNeil all right
15 and title to the Phase II technology.

16 67. It also gave DDI and Datum license to Phase II in connection with DDI's
17 Confidential Courier product and other products covered by the Controlling Access Patent (which
18 had not issued at that time).

19 68. Book was acting as counsel to GMT at the time the Datum-TTI Settlement and the
20 Controlling Access Settlement.

21 69. Book was explicit with GMT that the Datum-TTI Settlement only encompassed
22 trusted timing infrastructure ("TTI") intellectual property that was created during the time period
23 of February 1, 1998 to March 1, 1999.

24 70. Book, acting as counsel to GMT, also told Glassey that execution of the
25 Controlling Access Settlement would not prejudice his, or GMT's, rights of ownership of the
26 Phase II technology including the Phase II technology incorporated into the '629 patent.

1 71. Despite the language in the Controlling Access Settlement wherein Glassey,
2 McNeil and GMT disavow any ownership of the '629 patent and give up the right to create
3 products that incorporate Phase II technology, Book continued to advise Glassey and/or GMT
4 that execution of the Controlling Access Settlement would not impair Glassey's and/or GMT's
5 enjoyment of the rights associated with Phase II technology including portions of that technology
6 incorporated into the '629 patent.

7 72. Glassey and/or GMT relied upon Book's erroneous advice in deciding to agree to
8 execute the Controlling Access Settlement.

9 73. Despite the clear integration language in the Datum-TTI and Controlling Access
10 Settlements, Book also advised Glassey and/or GMT that subsequent to the execution of the
11 Datum-TTI and Controlling Access Settlements that the parties would execute additional,
12 subsidiary agreements.

13 74. According to Book, the parties had agreed to create and execute these subsidiary
14 agreements to better define the parties ownership and use rights of the broadly defined intellectual
15 property within the Datum-TTI and Controlling Access Settlements.

16 75. Those subsidiary agreements were never created.

17 76. Glassey and/or GMT relied upon Book's erroneous advice in deciding to agree to
18 execute the Controlling Access Settlement.

19 77. Cannon represented Datum in its dispute with GMT, Glassey and McNeil.

20 78. During the negotiations regarding the Controlling Access Settlement and the
21 Datum-TTI Settlement, Cannon either made material misstatements regarding the content and
22 effect of the two agreements, or ratified material misstatements made by Book.

23 79. Specifically, on several occasions, Cannon stated that Glassey would retain all
24 rights to any TTI technology not created specifically for Datum through Datum and Glassey's
25 relationship.

26 80. Moreover, Cannon also stated (and ratified Book's statement) that Glassey (and
27 McNeil) would retain all rights and title to the Phase II technology, including, but not limited to
28 the Phase II technology incorporated into the '629 Patent.

1 81. In approximately late 2000 or early 2001 Datum and Certified Time entered into a
2 written non-disclosure agreement ("Certified Time NDA") and Datum paid Certified Time
3 approximately \$360,000 in "standstill" money while Datum conducted its due diligence for the
4 proposes of potential Datum acquisition.

5 82. Pursuant to the Certified Time NDA, Certified Time turned over to Datum all its
6 intellectual property.

7 83. Moreover, Certified Time turned over to Datum Glassey's personal intellectual
8 property, including the Global Time Service (including all computer source code for the GTS
9 components), network infrastructure models, CRADA 1681 controls, and the associated audit and
10 certification practices and policies.

11 84. Datum decided not to purchase the company, but to Glassey's knowledge has not
12 returned any of the Certified Time or Glassey intellectual property.

13 85. In approximately mid-2002 Symmetricom acquired Datum.

14 86. Sometime in 2009, Glassey learned that Symmetricom (formerly Datum) breached
15 its obligations pursuant to the Controlling Access Settlement.

16 87. The Controlling Accesses Settlement limited Symmtricom's use of Glassey's
17 and/or GMT's Phase II technology to the original DDI Confidential Courier product and products
18 that are covered by the '629 patent.

19 88. Glassey inspected a piece of equipment manufactured by Thales Corporation, a
20 successor to nCipher Corporation, who Glassey believes received the technology from
21 Symetricom.

22 89. Specially, Glassey asked Symmetricom if it had sold the subject technology to
23 nCipher and Symmetricom refused to respond.

24 90. Glassey evaluated the Thales product and was able to discern that Thales' time
25 stamp model, policy model around the time stamps and the mechanism under which the time
26 stamps were issued and validated encroached upon Glassey's and/or GMT's Phase II technology.
27
28

1 91. Sometime in late 2010, Glassey found Symmetricom had created a product called
2 the Time Scale Server, which is a direct implementation of Glassey's GTS, including its regional
3 and master timing center infrastructure and service.

4 92. Specially, this product was designed to utilize the CRADA 1681 services to create
5 a stand-alone master time scale reference system suitable for use as a geographic and/or
6 nationalized time service.

7
8 **FIRST CAUSE OF ACTION**
 (Rescission of Controlling Access Settlement)

9 93. Plaintiffs incorporate paragraphs 1 through 92 as though set forth fully herein.

10 94. On or about November 19, 1999, Glassey entered into a contract with DDI and
11 Datum herein referred to as the Controlling Access Settlement.

12 95. Under the terms of the Controlling Access Settlement, Glassey was required,
13 among other things, to disavow any ownership of the '629 Patent and was prohibited from
14 commercializing his Phase II technology.

15 96. Symmetricom (successor to both Datum and DDI) was required to pay Glassey,
16 McNeil and/or GMT \$300,000 collectively and to dismiss its then its then-current lawsuit against
17 Glassey McNeil and/or GMT.

18 97. On or about, 2009, Glassey learned that Book's advice regarding his rights and
19 responsibilities pursuant to the Controlling Access Settlement was erroneous.

20 98. Specially, at the time of the execution of the Controlling Access Settlement,
21 Glassey, relying upon Book's advice, believed that despite the language of the Controlling Access
22 Settlement that Glassey was not relinquishing any rights to the Phase II technology, including, but
23 not limited to rights to the Phase II technology contained in the '629 patent.

24 99. Moreover, based upon Book's advice, Glassey believed that he had the right to
25 commercially exploit his Phase II technology without restriction.

26 100. Glassey relied upon Book's advice and would not have signed the Controlling
27 Access Settlement had Book given him competent advice regarding the content and effect of the
28 terms and conditions in the Controlling Access Settlement.

101. Glassey also understood that Cannon affirmed Glassey's then-current understanding that despite the language of the Controlling Access Settlement that Glassey was not relinquishing any rights to the Phase II technology, including, but not limited to rights to the Phase II technology contained in the '629 patent.

102. Glassey has always believed and affirmed that he had rights to the '629 Patent and its foreign counter-parts.

103. Upon information and belief, Glassey alleges that Symmetricom denies that Glassey has any ownership rights in the '629 patent.

104. Upon information and belief, Glassey alleges that Symmetricom claims that Glassey is prohibited from commercializing his Phase II technology.

105. Upon information and belief, Glassey alleges that Cannon knew of, and perpetuated, Glassey's misunderstanding of the content and effect of the Controlling Access Settlement to advance the interests of Datum.

106. These facts constitute grounds for rescission of the contract under California Civil Code section 1689.

107. By service of this second amended complaint, Glassey gives notice of rescission of the Controlling Access Settlement to Symmetricom and Glassey and McNeil offer to restore to Symmetricom everything of value which he has received from Symmetricom under the Controlling Access Settlement upon the condition that Symmetricom does likewise.

SECOND CAUSE OF ACTION
(Breach of Controlling Access Settlement)

108. Plaintiff incorporates paragraphs 1 through 107 as though set forth fully herein.

109. The Controlling Access Settlement gives Glassey all right and title over the Phase II technology.

110. The Controlling Access Settlement also limits Symmetricom's license to the Phase II technology to use in relation the Confidential Courier product and for products that are covered by the '629 patent.

111. Upon information and belief, Glassey hereby asserts that Symmertricom has

1 breached the Controlling Access Settlement.

2 112. At all times Glassey has complied with his obligations pursuant to the Controlling
3 Access Settlement.

4 113. Sometime in 2009, Glassey inspected a piece of equipment manufactured by
5 Thales Corporation, a successor to nCipher Corporation.

6 114. Glassey evaluated the Thales product and was able to discern that Thales' time
7 stamp model, policy model around the time stamps and the mechanism under which the time
8 stamps were issued and validated encroached upon Glassey's and/or GMT's Phase II technology

9 115. Upon information and belief, Symmetricom sold nCipher the time stamp model,
10 policy model around the time stamps and the mechanism under which the time stamps were
11 issued and validated.

12 116. Thereafter, nCipher sold the technology to Thales.

13 117. Glassey asked Symmetricom if it had sold the subject technology to nCipher and
14 Symmetricom refused to respond giving even more credence to Glassey's belief that
15 Symmetricom encroached upon Glassey's Phase II technology and then profited by selling that
16 technology to nCipher.

17 118. Glassey has been harmed because Symmetricom breached the Controlling Access
18 Settlement

19 **THIRD CAUSE OF ACTION**
20 **(Breach of the Non-Disclosure Agreement with Certified Time)**

21 119. Plaintiff incorporates paragraphs 1 through 118 as though set forth fully herein.

22 120. Glassey is the owner of all of Certified Time's intellectual property and remaining
23 tangible assets of the estate located outside the United States pursuant to his purchase of those
24 assets from the Bankruptcy estate.

25 121. One of the Certified Time assets that Glassey owns is the rights accorded to
26 Certified Time pursuant to the Certified Time NDA.

27 122. Upon information and belief, Certified Time and Symmetricom (as a successor to
28 Datum) entered into the Certified Time NDA and that is a valid and enforceable contract.

123. Upon information and belief, that Certified Time NDA restricts Symmetricom's ability to use, disclose and commercialize Certified Time's intellectual property.

124. Upon information and belief, Certified Time has at all times complied with the terms and conditions of the Certified Time NDA.

125. Upon information and belief, Glassey has at all times complied with the terms and conditions of the Certified Time NDA.

126. Upon information and belief, Symmetricom breached the Certified Time NDA by creating a product called the Time Scale Server, which is a direct implementation of Glassey's GTS, including its regional and master timing center infrastructure and service.

127. Specially, this product was designed to utilize the CRADA 1681 services to create a stand-alone master time scale reference system suitable for use as a geographic and/or nationalized time service.

128. Certified Time and Glassey have been harmed by Symmetricom's breach of the Certified Time NDA.

FOURTH CAUSE OF ACTION
(Conversion)

129. Plaintiff incorporates paragraphs 1 through 128 as though set forth fully herein.

130. Glassey possesses legal right to the GTS, including its regional and master timing center infrastructure and service.

131. Glassey possesses all legal rights to the entirety of Certified Time's intellectual property.

132. Glassey possesses legal rights to the Phase II technology.

133. Symmetricom has intentionally taken possession of Glassey's GTS, Certified Time's intellectual property and to Glassey's Phase II technology.

134. Glassey did not consent to Symmetricom's taking of his property.

135. Glassey has been harmed by Symmetricom's actions; and

136. Symmetricom's conduct was a substantial factor in causing Glassey's harm.

FIFTH CAUSE OF ACTION
(Unjust Enrichment)

137. Plaintiff incorporates paragraphs 1 through 136 as though set forth fully herein.

138. Certified Time provided Symmetricom with valuable intellectual property, including Glassey's GTS.

139. Symmetricom has obtained value from receipt of the Certified Time's intellectual property, including Glassey's GTS.

140. Glassey relied upon the 1997 Datum NDA, Coastek Non Disclosure Agreement and Oral Consulting Agreement to protect his interest in his intellectual property.

141. Glassey, on more than one occasion, indicated to Datum and DDI that he possessed his own intellectual property that was to be protected.

142. It would inequitable to allow Symmetricom to benefit from receipt of Certified Time's intellectual property, including Glassey's GTS, without providing Certified Time and Glassey adequate compensation.

SIXTH CAUSE OF ACTION
(Reformation of the Controlling Access Settlement)

143. Plaintiff incorporates paragraphs 1 through 142 as though fully set forth herein.

144. The Controlling Access Settlement fails to represent the true intentions of Glassey and Symmetricom. The true intentions of Glassey and Symmetricom was that Glassey would not relinquish any rights to the Phase II technology contained in the '629 patent.

145. Upon information and belief, Glassey alleges that Symmetricom denies that Glassey has any ownership rights in the '629 patent and that Symmetricom claims that Glassey is prohibited from commercializing his Phase II technology. To the extent the Controlling Access Settlement denies Glassey his ownership and commercialization rights, that written agreement fails to represent the true intentions of Glassey and Symmetricom.

146. Glassey intended and believed that, despite the language of the Controlling Access Settlement, he was not relinquishing any rights to the Phase II technology, including but not limited to rights to the Phase II technology contained in the '629 patent, by entering into the Controlling Access Settlement. In forming this belief, Glassey relied upon the advise of Book and the affirmation of Cannon that this was the effect of the Controlling Access Settlement. Glassey alleges that Cannon knew of, and perpetuated, Glassey's misunderstanding of the content and effect of the Controlling Access Settlement to advance the interests of Datum, resulting in Glassey's mistake.

147. As a result of the mistake in the Controlling Access Settlement, Glassey is entitled to reformation of the Controlling Access Settlement to reflect the true intentions of Glassey and Symmetricom, pursuant to California Civil Code section 3399.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request judgment against Defendant as follows:

148. The Court should rescind the Controlling Access Settlement;

149. The Court should reform the Controlling Access Settlement;

150. If the Court does not rescind or reform the Controlling Access Settlement, find that Symmetricom, as a successor to Datum, breached the Controlling Access Settlement;

151. Symmetricom, as a successor to Datum, breached the Certified Time NDA;

152. Symmetricom, as a successor to Datum, converted Glassey's intellectual property;

153. Symmetricom, as a successor to Datum, has been unjustly enriched by its unauthorized use of Glassey's intellectual property;

154. For damages according to proof;

155. Attorney's fees and costs associated with the suit; and

156. For such other and further relief as the Court deems appropriate.

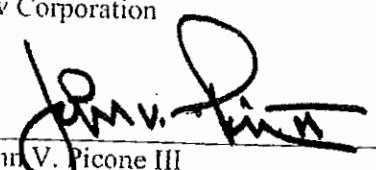
REQUEST FOR JURY TRIAL

157. Glassey and McNeil requests a jury trial.

1 Dated: January 7, 2011

HOPKINS & CARLEY
A Law Corporation

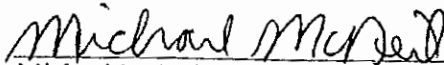
2
3
4 By:


John V. Picone III

Attorneys for Plaintiff Todd S. Glassey

5
6 Dated: January 7, 2011

MICHAEL MCNEIL

7
8 
9 Michael McNeil, Pro Se Individual

CERTIFICATE OF SERVICE

I, Julie Willson, declare under penalty of perjury under the laws of the State of California that the following facts are true and correct:

I am a citizen of the United States, over the age of eighteen years, and not a party to the within action. I am an employee of Berliner Cohen, and my business address is Ten Almaden Boulevard, Suite 1100, San Jose, California 95113-2233. On January 7, 2011, I served the following document(s):

SECOND AMENDED COMPLAINT FOR DECLARATORY RELIEF, BREACH OF SETTLEMENT AGREEMENT, CONVERSION AND NEGLIGENCE

in the following manner:

- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below, or as stated on the attached service list, from the sending facsimile machine telephone number of (408) 938-2577. The transmission was reported as complete and without error by the machine. Pursuant to California Rules of Court, Rule 2008(e)(4), I caused the machine to print a transmission record of the transmission, a copy of which is attached to the original of this declaration. The transmission report was properly issued by the transmitting facsimile machine.
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Jose, California addressed as set forth below.
- ☐ by overnight mail by placing the document(s) listed above in a sealed overnight mail envelope with postage thereon fully prepaid, addressed as set forth below.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by e-mail or electronic transmission. Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I cause the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

SEE ATTACHED SERVICE LIST

I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service/Express Mail, Federal Express and other overnight mail services, to wit, that correspondence will be deposited with the United States Postal Service/overnight mail service this same day in the ordinary course of business.

Executed on January 7, 2011, at San Jose, California.


JULIE WILLSON

SERVICE LIST

In Pro Per:

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EXHIBIT 3

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS): Todd S. Glassey, In Pro Se 305 McGaffigan Mill Rd., Boulder Creek CA 95006		TELEPHONE NO.: 408-890-7321	<i>For Court Use Only</i> <div style="font-size: 2em; text-align: center;">FILED</div> <div style="text-align: center;">SEP 4 2012</div> <div style="text-align: center;">ALEX CALVO, CLERK BY DEBORAH ROJAS DEPUTY, SANTA CRUZ COUNTY</div>
ATTORNEY FOR (NAME): Todd S. Glassey			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CRUZ <input checked="" type="checkbox"/> Santa Cruz <input type="checkbox"/> Watsonville Branch 701 Ocean Street, Room 110 1 Second Street, Room 300 Santa Cruz, CA 95060 Watsonville, CA 95076			
Plaintiff: McNeil et Al Defendant: Book et Al (Symmetricom) <i>AND AMENDED</i>			
AMENDMENT TO COMPLAINT			CASE NO.: CV165643

FICTITIOUS NAME (No order required)

Upon filing the complaint in this case, plaintiff(s) being ignorant of the true name of a defendant, designated such defendant in the complaint by the fictitious name of DOE 60

and having discovered the defendants true name to be The Internet Society, plaintiff(s) amend(s) the complaint by inserting such true name instead of such fictitious name wherever it appears in the complaint.

Date: 9/3/2012

//tsg

Attorney(s) for Plaintiff(s)

INCORRECT NAME (Requires order thereon)

Plaintiff(s) having designated a defendant in the complaint by the incorrect name of _____ and having discovered the true name of the defendant to be _____ amend(s) the complaint by inserting such true name instead of such incorrect name wherever it appears in the complaint.

Date: _____

Attorney(s) for Plaintiff(s)

ORDER TO AMEND INCORRECT NAME

Proper cause appearing, the above amendment to the complaint is allowed.

Dated _____

Judge

AMENDMENT TO COMPLAINT

EXHIBIT 4

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Attorney for Plaintiffs
TODD S. GLASSEY and
MICHAEL E. MCNEIL

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

TODD S. GLASSEY
and
MICHAEL E. MCNEIL,
Plaintiffs,

vs.

SYMMETRICOM, INC.
Defendant.

CASE NO.

JUDGE

COMPLAINT

Jury Demand Endorsed Hereon

For their Complaint, Plaintiffs Todd S. Glassey and Michael E. McNeil state as follows:

1. Plaintiffs are individuals who were, for all times relevant hereto, residents of Santa Cruz County, California.

2. Defendant Symmetricom, Inc. ("**Symmetricom**"), is, on information and belief, a Delaware corporation with its principal place of business in San Jose County, California.

3. Symmetricom did, on information and belief, acquire the assets and liabilities of Datum, Inc. ("**Datum**"), in 2002.

1 4. Datum did, on information and belief, acquire the assets and liabilities of Digital
2 Delivery, Inc. (“**DDI**”) in or about July 1999.

3 5. Symmetricom is, on information and belief, the successor in interest for any
4 liabilities of Datum and DDI to Plaintiffs.

5 **JURISDICTION AND VENUE**
6

7 6. This Court has original subject matter jurisdiction over this suit pursuant to 28
8 USC § 1338 because the matters in it relate to patents.

9 7. This Court has subject matter jurisdiction over the remaining claims at issue in this
10 suit pursuant to is supplemental jurisdiction as codified by 28 USC § 1367 because they form part
11 of the same case and controversy as those claims relating to patents.
12

13 8. This Court has personal jurisdiction over this matter because the Plaintiffs reside in
14 this judicial district and a substantial portion of the events below took place in this district.

15 9. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) because a
16 substantial part of the acts or omissions giving rise to the claims at issue in this dispute occurred
17 in this district.
18

19
20
21 **STATEMENT OF OPERATIVE FACTS**
22

23 10. This Complaint is being brought in the United States District Court because there
24 are issues in dispute between the parties which require the Court to construe the claims of certain
25 US Patents and applications for patents which confers exclusive jurisdiction for central
26 components of this dispute to the federal judiciary.
27
28

1 11. Prior to the filing of this Complaint in this Court, the Plaintiffs and Symmetricom
2 were parties to a California Superior Court suit captioned *Michael E. McNeil, et al. v*
3 *Symmetricom, et al.*, which was dismissed without prejudice to any of the claims therein and
4 proceeded as that Court's Case No. CV 165643 (the "State Court Lawsuit").

5 12. The State Court Lawsuit could not continue to be prosecuted in California Superior
6 Court because, as that case developed, it became apparent that the California Superior Court
7 would be required to construe US Patent claims and claims in patent applications in order to
8 render any judgment on the claims for relief Plaintiffs brought, and that Court lacked the subject
9 matter jurisdiction to do so.
10

11 13. Plaintiffs are computer scientists with expertise in the design, development, and
12 implementation of timekeeping technologies for use in a variety of security, commerce, and
13 communications systems with a special focus on digital evidence systems focusing on location
14 and time infrastructure.
15

16 14. Symmetricom, for itself and as successor in interest to Datum and DDI, is in the
17 business of commercializing timekeeping technologies for use in various markets.
18
19
20
21
22

23 **Plaintiffs' Relationship with Datum**

24 15. In or about October 1997, Plaintiff Glassey approached Datum to manufacture a
25 component of the time controls for an email and document control gateway of Glassey's design.

26 16. Further to that discussion between Plaintiff Glassey and Datum, and to facilitate a
27 discussion concerning whether Datum and Glassey might undertake broader business efforts
28

1 together, Datum and Glassey entered into a mutual nondisclosure agreement in November 1997
2 (the “**Datum NDA**”).

3 17. In the months following the execution of the Datum NDA, Glassey and Datum had
4 a variety of conversations concerning whether and how they would work together to develop new
5 and useful technologies.

6 18. In early 1998 Plaintiff Glassey was joined in his commercial efforts by Plaintiff
7 McNeil in Glassey’s new company known as GMT.

8 19. On or about May 4, 1998, Plaintiffs each executed a consulting agreement with
9 Datum for the purpose of securing certain technical consulting services (the “**Datum Consulting**
10 **Agreements**”), true and correct copies of which are attached as Exhibits A and B hereto.

11 20. The Datum Consulting Agreements were effective from May 4, 1998, to July 4,
12 1998, and during that period Plaintiffs provided services to Datum exclusively relating to market
13 analysis to support Datum’s developing e-commerce division.

14 21. Upon the expiration of the Datum Consulting Agreements, Plaintiffs and Datum
15 agreed to continue to work together without further written agreements with the understanding,
16 based on the existing Datum NDA, that Plaintiffs would own any and all intellectual property
17 developed by them or shared by them during the term of the continuing relationship and that
18 Plaintiffs would be independent contractors for Datum.

19 22. Among the tasks Plaintiffs agreed to take on as independent contractors for Datum
20 after July 4, 1998, were the identification of potential acquisition targets for Datum as it sought to
21 expand its e-commerce business.

22 **Plaintiffs’ Relationship With DDI**

1 23. From approximately December 1997 onward, Plaintiffs worked to develop other
2 relationships in the industry for the purpose of commercializing their time control technologies.

3 24. One of the companies that Plaintiffs developed a relationship with was DDI.

4 25. Plaintiffs first collaborated with DDI for purposes of obtaining support and
5 assistance in the filing and prosecution of various patent filings.

6 26. DDI and Plaintiffs worked in 1997 and 1998 to enhance DDI's so-called
7 **Confidential Courier** product with various aspects of Plaintiffs' time control technologies.

8 27. At some time in July 1998, Plaintiffs and DDI decided to pursue a U.S. Patent
9 application which would incorporate some of Plaintiffs' time control technology with some of
10 DDI's existing Confidential Courier technology which was the subject matter of an existing U.S.
11 Patent.
12

13 28. The new U.S. Patent which DDI and Plaintiffs envisioned was to be known as the
14 **Controlling Access Patent** and DDI and Plaintiffs sought to formalize an agreement which
15 would allow for the most prompt filing of the application for the Controlling Access Patent.
16

17
18 **The 1998 Co-Inventor Agreement**

19 29. Effective on or about October 26, 1998, Plaintiffs and DDI entered into an
20 agreement known as the **Co-Inventor Agreement**, a copy of which is attached hereto as Exhibit
21 C.
22

23 30. According to Recital D the Co-Inventor Agreement, its purpose was:

24 [T]o allow the Controlling Access Patent application to be submitted as
25 early as possible and prior to a definitive agreement between the parties
26 with respect to each party's rights to exploit the Controlling Access Patent,
27 the respective mutual and exclusive rights to the underlying or derivative
28 technology, methodology, or other patentable subject matter contained or
referenced in the Controlling Access Patent, and the compensation to be
paid by Digital to Glassey-McNeil for assignment of certain rights therein
to Digital.

1 31. Recital A of the Co-Inventor Agreement commemorated DDI's ownership of the
2 Confidential Courier product.

3
4 32. Paragraph 1.C. of the Co-Inventor Agreement commemorated that Plaintiffs
5 developed and provided to the Controlling Access Patent application technologies including
6 "**GPS Phase II**" which specifically included, "a cryptographic signing and verification process
7 with the transmittal of time and geographic positioning information that allows a legally
8 indemnifiable degree of trust to be established in the time and geographic positioning information
9 thus conveyed."

10
11 33. Paragraph 2.A. of the Co-Inventor Agreement provided further that, "[DDI]
12 acknowledges that the GPS Phase II technology is solely and exclusively the idea and invention
13 of [Plaintiffs]."

14
15 34. The Co-Inventor Agreement explicitly contemplated that a future "definitive"
16 agreement would be entered among the parties concerning the compensation to be paid to
17 Plaintiffs as well as the parties' mutual and exclusive rights to the Controlling Access Patent.

18 35. Two days after the Co-Inventor Agreement was executed, on October 29, 1998, the
19 Controlling Access Patent Application (the "**1998 Patent Application**") was filed with the US
20 Patent and Trademark Office ("USPTO"), a copy of which is attached as Exhibit D hereto.
21

22 **The 1999 Controlling Access Settlement**

23 36. Datum and DDI consummated a merger on or about July 29, 1999, whereby DDI
24 became a wholly owned subsidiary of Datum, upon which merger Datum became the successor-
25 in-interest to all of the rights and responsibilities contemplated by the Co-Inventor Agreement.
26

27 37. In August 1999 a dispute arose between Plaintiffs and Datum concerning various
28 alleged breaches of duties the parties claimed or disputed were owed among them.

1 38. Datum filed suit on or about August 20, 1999, based on those disputes, and the
2 parties promptly agreed to settle that litigation.

3 39. To settle the 1999 lawsuit, Plaintiffs and Datum entered into two separate
4 settlement agreements in November 1999, one of which is at issue in this lawsuit and is the so-
5 called **Controlling Access Settlement**, a copy of which is attached as Exhibit E.

6 40. The Controlling Access Settlement served as the “definitive” agreement between
7 Plaintiffs and Datum concerning the compensation to be paid to Plaintiffs as well as the parties’
8 mutual and exclusive rights to the Controlling Access Patent which was contemplated in 1998 by
9 the Co-Inventor Agreement.
10

11 41. Paragraph 2.2 of the Controlling Access Settlement defined the “Controlling
12 Access Patent” for purposes of that agreement to include the 1998 Patent Application as well as
13 foreign patents pending.
14

15 42. Paragraph 2.3 of the Controlling Access Settlement defined **Phase II Technology**
16 as:
17

18 The method of authentication, encryption and transmission of date/time
19 and/or location data for the purpose of linking together two or more
20 disparate electronic components, such that a trust model is established
21 between them. Such physical elements must individually be capable of
22 computational and cryptographic functionality, but computationally may be
isolated from one another. Such electronic components must be physically
secure, and communicate with each other over communications channel(s)
which may themselves be insecure.

23 43. Phase II Technology included, and expanded, the technology identified as GPS
24 Phase II technology which had been identified as the property of Plaintiffs in the Co-Inventor
25 Agreement.
26
27
28

1 44. Pursuant to Paragraph 3.2 of the Controlling Access Settlement, Plaintiffs assigned
2 all rights, title, and interest in the 1998 Patent Application and foreign patents based thereon to
3 Datum.

4 45. However, Datum explicitly agreed in Paragraph 3.3 on the Controlling Access
5 Settlement that Plaintiffs, “own[] all rights, title and interest in the Phase II Technology”.

6 46. Paragraph 3.3 of the Controlling Access Settlement granted Datum a, “perpetual,
7 non-exclusive, irrevocable, assignable, sub-licensable, worldwide license for use of the Phase II
8 Technology and derivatives thereof, with rights to sublicense, in connection with the Confidential
9 Courier product and other products and technology covered by the [1998 Patent Application and
10 foreign patents pending].”
11

12 47. According to the foregoing provisions of the Controlling Access Settlement,
13 Plaintiffs had exclusive rights, title, and interest to Phase II Technology, anywhere in the world,
14 except for the limited rights which Datum had to use that Phase II Technology which was
15 identified in the 1998 Patent Application.
16

17 48. Also according to the foregoing provisions of the Controlling Access Settlement
18 which granted all ownership rights in Phase II Technology to Plaintiffs, subject to Datum’s
19 license, Datum had an obligation to protect and maintain any and all patents relating to Phase II
20 Technology to which it was assignee.
21

22 49. Paragraph 3.6 of the Controlling Access Settlement further clarified the parties’
23 intent that Plaintiffs would continue to have the right to commercialize Phase II Technology.
24

25 50. Specifically, Paragraph 3.6 memorialized that Plaintiffs agreed not to, “make, use,
26 or sell any products developed using or derived from the Phase II Technology which also include
27 the technology described in or covered by [Datum’s existing Confidential Courier patent]”.
28

1 51. The above clarifies that Plaintiffs retained all rights to make, use, and sell all Phase
2 II Technology which did not also include the technology described in or covered by the patent
3 covering the Confidential Courier product.

4 52. As of the effective date of the Controlling Access Settlement, the 1998 Application
5 had been pending at the US Patent and Trademark Office (“PTO”) unchanged from its October
6 28, 1998, filing date.

7
8 **The 2001 Controlling Access Patent Application Expansion**

9 53. After the parties executed the Controlling Access Settlement, Datum continued the
10 prosecution of the Controlling Access Patent.

11 54. At no time following the execution of the Controlling Access Settlement were
12 Plaintiffs involved in the prosecution of the Controlling Access Patent.

13 55. At no time following the execution of the Controlling Access Settlement did
14 Datum ever attempt to include Plaintiffs in the prosecution of the Controlling Access Patent or
15 advise them of the status of that prosecution.

16
17 56. Following a rejection of the developing application for the Controlling Access
18 Patent for anticipation and another for obviousness, Datum radically expanded the amount of
19 Phase II Technology in the independent claims it pursued in the Controlling Access Patent
20 application in its response to office action dated August 20, 2001 (the “**2001 Patent Application**
21 **Rewrite**”), a copy of which is attached as Exhibit F hereto.

22
23 57. Plaintiffs did not discover the scope and effect of the 2001 Patent Application
24 Rewrite until 2013.

25 58. As a result of the 2001 Patent Application Rewrite, each of the independent claims
26 Datum pursued in its application for the Controlling Access Patent included vastly more of
27
28

1 Plaintiffs' Phase II Technology than they had ever agreed to license to Datum in the Controlling
2 Access Settlement.

3 59. The 2001 Patent Application Rewrite modified Claim 1 to insert Phase II
4 Technology as indicated below in bold and italics:

5
6 A method for controlling access to stored information comprising:

7
8 Determining an actual geographic position where said stored information is
9 located based on signals received at a receiver supplying reliable position
10 information;

11
12 *Cryptographically signing said actual geographic position with a receiver*
13 *encryption key;*

14
15 *Verifying the signature of said actual geographic position;*

16
17 Determining that said actual geographic position is within a geographic
18 region within which access to said stored information is authorized; and

19
20 Permitting access to said stored information.

21 60. The 2001 Patent Application Rewrite modified Claim 12 to insert Phase II
22 Technology as indicated below in bold and italics:

23
24 Apparatus for controlling access to stored information comprising:

25
26 A receiver supplying reliable position information for determining an
27 actual geographic position where said stored information is located,
28 *wherein the receiver comprises a receiver encryption mechanism*

1 *providing a receiver encryption key for cryptographically signing data*
2 *comprising the actual geographic position; and*

3
4 A computer for comparing said actual geographic position with a
5 geographic region within which access to said stored information is
6 authorized,

7
8 Wherein said computer permits access to said stored information if said
9 actual geographic position is located within said authorized geographic
 region.

10 61. The 2001 Patent Application Rewrite modified Claim 18 to insert Phase II
11 Technology as indicated below in bold and italics:

12
13 A method for controlling access to a subset of files belonging to a larger set
14 of files of stored information comprising:

15
16 Associating a unique file encryption key with each file from the larger set
17 of files and encrypting the files using the associated encryption keys;

18
19 Associating each of the files from the larger set of files with at least one
20 authorized geographic region within which access to said stored
21 information is authorized;

22
23 Determining an actual geographic position where said stored information is
24 located based on signals received at a receiver supplying reliable position
25 information;

26
27 ***Cryptographically signing at least the actual geographic position at the***
28 ***receiver;***

Verifying the signature of the actual geographic position;

Comparing said actual geographic position with said authorized geographic region; and

Providing a file decryption key which authorizes access to said files permits decryption of said files belonging to said subset of files, provided that the actual geographic position is located within the authorized geographic region for the files belonging to said subset of files.

62. The 2001 Patent Application Rewrite modified Claim 21 to insert Phase II Technology as indicated below in bold and italics:

A method for controlling access to stored information comprising:

Determining an actual date or time at the location of said stored information based on signals received at a receiver supplying reliable time information;

Cryptographically signing at least the actual date or time at the receiver;

Verifying the signature of the actual date or time;

Comparing said actual date or time with a predetermined date or time interval at which access to said stored information is authorized; and

Permitting access to said stored information if said actual date or time occurs within said authorized date or time interval.

1 63. The 2001 Patent Application Rewrite modified Claim 25 to insert Phase II
2 Technology as indicated below in bold and italics:

3 A method for controlling access to stored information comprising:

4
5 Forming a policy associating said information with authorized geographic
6 regions and authorized time intervals;

7
8 Cryptographically signing said policy and said information;

9
10 Storing said signed policy together with said signed information;

11
12 Providing a password for unlocking said policy;

13
14 Determining an actual geographic position where said stored information is
15 located based on signals received at a receiver supplying reliable position
16 information;

17
18 Determining an actual time;

19
20 ***Cryptographically signing at least the actual geographic position and the***
21 ***actual time at the receiver;***

22
23 ***Verifying the signature of the actual geographic position and the actual***
24 ***time;***

25
26 Comparing said actual geographic position and said actual time with said
27 authorized geographic regions and authorized time interval of said policy;
28 and

1
2 Permitting access to said stored information if said actual geographic
3 position and actual time falls within said authorized geographic regions and
authorized time interval of said policy.

4 64. The 2001 Patent Application Rewrite included a new independent Claim 29 which
5 was entirely comprised of Phase II Technology:

6
7 A method for controlling access to stored information, the method
8 comprising:

- 9
10 (a) Determining a position;
11
12 (b) Cryptographically signing data comprising at least a representation
of the position;
13
14 (c) Verifying the signature of the data comprising at least a
representation of the position;
15
16 (d) Determining that access to the stored information is authorized at
17 the position;
18
19 (e) Permitting access to the information based at least upon (c) and (d).

20 65. The consequence of Datum's radical expansion of the amount of Phase II
21 Technology in the 2001 Patent Application Rewrite was twofold: first, it was sufficient to
22 convince the PTO to grant a notice of allowance of the application and paved the way for issuance
23 of the patent; and second, it had the effect of subsuming what remained of Plaintiffs' Phase II
24 Technology into the issued Controlling Access Patent.

25 66. The Controlling Access Patent ultimately issued as US Patent No. 6,370,629 (the
26 "**629 Patent**") on April 9, 2002, a copy of which is attached as Exhibit G hereto.

27
28 67. The '629 Patent will be in effect until October 29, 2018.

1 68. The claims in the 2001 Application Rewrite numbered 12, 18, 21, 25, and 29 were
2 issued verbatim as claims 11, 16, 19, 23, and 27 (respectively) in the '629 Patent.

3 69. The 629 Patent contained a significant amount of Phase II Technology which
4 Symmetricom had never compensated Plaintiffs for and which Plaintiffs had free reign to license
5 to third parties.

6 70. Datum, and on information and belief later Symmetricom, prosecuted similar
7 patents to the '629 Patent in other jurisdictions around the world.

8
9 **Symmetricom's Repudiation Of Plaintiffs' Rights**
10 **To Phase II Technology**

11 71. In the years following the issuance of the '629 Patent, Plaintiffs attempted to
12 license their Phase II Technology, as embodied in the '629 Patent, to various third parties.

13 72. Datum (hereafter referred to interchangeably with its parent Symmetricom)
14 interfered with Plaintiffs' attempts to do so by refusing to acknowledge the existence or validity
15 of the Controlling Access Settlement until it produced a countersigned copy for the first time in
16 February 2013.

17 73. On information and belief, Symmetricom further interfered with Plaintiffs'
18 attempts to license their Phase II Technology by refusing to produce a countersigned copy of the
19 Controlling Access Settlement to Plaintiffs, including refusing to do so in connection with the
20 civil suits relating to the Controlling Access Settlement pending in California Superior Court
21 since 2009.

22 74. On information and belief, Symmetricom allowed foreign patents which covered
23 Plaintiffs' Phase II Technology to lapse or become abandoned, despite having the duty to
24 maintain those patents and having knowledge that Plaintiffs relied on them to do so.
25
26
27
28

COUNT ONE
**(Breach of Controlling Access Settlement by
2001 Patent Application Rewrite)**

75. Plaintiffs restate the above as if set out in full herein.

76. In 1999, Plaintiffs and Symmetricom entered into the Controlling Access Settlement by which they contracted for Symmetricom's license to the portion of Plaintiffs' Phase II Technology which was embodied in the 1998 Patent Application.

77. The Controlling Access Settlement is still in force and serves as the basis for Symmetricom's continuing claim to be the assignee of the '629 Patent.

78. In 2001 Symmetricom breached the Controlling Access Settlement, and its license to Phase II Technology embodied therein, with its 2001 Application Rewrite to the USPTO, which resulted in the '629 Patent containing claims which read on Phase II Technology never contemplated by the parties to the Controlling Access Settlement and never licensed to Symmetricom.

79. As a result of Symmetricom's breach of the Controlling Access Settlement, Plaintiffs have been damaged in the amount of licenses they could have received from the Phase II Technology described in the 2001 Application Rewrite, their expectancy therefrom, and/or their lost profits from the 2002 issue date of the '629 through the life of the '629 Patent which will not expire until 2018.

COUNT TWO
**(Breach of Controlling Access Settlement For
Failure to Protect Phase II IP)**

80. Plaintiffs restate the above as if set out fully herein.

1 unjustly enriched in the amount that it has benefitted in any way from the Phase II Technology
2 not included in the 1998 Patent Application.

3 **COUNT FOUR**
4 **(Tortious Interference With Prospective Economic Advantage)**

5 90. Plaintiffs restate the above as if set out fully herein.

6 91. Plaintiffs are the sole owners of Phase II Technology with the limited exceptions
7 of Symmetricom's license rights as delineated in the Controlling Access Settlement.

8 92. Symmetricom, as the counterparty to the Controlling Access Settlement, had actual
9 knowledge of Plaintiffs' rights to all Phase II Technology, subject to its limited license rights.
10

11 93. After issuance of the '629 Patent, Plaintiffs attempted to license rights to their
12 Phase II Technology with prospective licensees.

13 94. On information and belief, Symmetricom directly interfered with Plaintiffs'
14 attempts to obtain economic advantage from their Phase II Technology by advising prospective
15 licensees that Plaintiffs had no rights to any of the property embodied in the '629 Patent,
16 including all Phase II Technology therein.
17

18 95. Symmetricom likewise repudiated the existence of the Controlling Access
19 Settlement to Plaintiffs and to third parties by, among other things, refusing to produce a fully-
20 executed copy of that agreement until February of 2013.
21

22 96. Symmetricom's direct and indirect actions were wrongful and done with the intent
23 to deprive Plaintiffs of their business expectancy with prospective licensees.

24 97. As a result of Symmetricom's tortious interference with their prospective license
25 arrangements, Plaintiffs have been damaged in an amount to be determined at trial.
26

27 **COUNT FIVE**
28 **(Declaratory Judgment – '629 Patent Contains Phase II Technology Not Within 1998 Patent Application)**

1 98. Plaintiffs restate the above as if set out fully herein.

2 99. There is an actual controversy as to whether and to what extent the 2001
3 Application Rewrite and the '629 Patent contain Phase II Technology which was not
4 contemplated by, or incorporated into, the 1998 Patent Application or the Controlling Access
5 Settlement.
6

7 100. Plaintiffs request the Court enter a declaratory judgment based upon its
8 construction of the claims of the 2001 Application Rewrite and the '629 Patent and its comparison
9 of them with those in the 1998 Patent Application to delineate with specificity the components of
10 the claims of the 2001 Application Rewrite and the '629 Patent which read on Phase II
11 Technology and are not contained in the 1998 Patent Application.
12

13 WHEREFORE, Plaintiffs Michael E. McNeil and Todd S. Glassey request this Court to
14 enter judgment in their favor on all counts, to award them damages in an amount to be determined
15 at trial, to award them declaratory relief to the effect that the 2001 Application Rewrite and the
16 '629 Patent contain Phase II Technology which was not identified in the 1998 Patent Application,
17 and to award them any other relief to which they are entitled.
18
19

20 Respectfully submitted,

21 **Steburg Law Firm, PC**

22 /s/ Anita L. Steburg
23 Anita Steburg
24
25
26
27
28

Ross M. Babbitt Co., LPA

/s/ Ross M. Babbitt

Ross M. Babbitt

Ohio Atty. Reg. No. 0072946

rbabbitt@babbitt-lawfirm.com

700 West St. Clair Avenue

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Cleveland, OH 44113

Telephone: (216) 623-6346

Facsimile: (216) 274-9683

Mahany & Ertl

/s/ Brian Mahany

Brian Mahany

Wisconsin Bar No. 1065623

P.O. Box 511328

Milwaukee WI 53202

Telephone: (414)-223-0464

Facsimile: (414) 223-0472

Attorneys for Plaintiffs Todd S. Glassey and

Michael E. McNeil

Jury Demand

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury of all issues so triable.

DATED: October 7, 2013

STEBURG LAW FIRM, P.C.

By: /s/ Anita L. Steburg
Anita L. Steburg
Attorney for Plaintiffs

EXHIBIT 5

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Release ("Agreement") is entered into by and between DATUM, INC. ("DATUM") and DIGITAL DELIVERY INC. ("DDI"), on the one hand, and GLASSEY-MCNEIL TECHNOLOGIES ("GMT"), TODD GLASSEY ("GLASSEY") and MICHAEL E. MCNEIL ("MCNEIL") (collectively referred to as "GMT/GLASSEY/ MCNEIL"), on the other hand.

SECTION ONE

BACKGROUND

1.1 GLASSEY and MCNEIL and DDI entered into a Co-Inventor Agreement, dated October 26, 1998 (the "Co-Inventor Agreement"), pursuant to which those parties agreed, on an interim basis, to certain rights and interests in intellectual property and to certain future payment obligations of DDI, pending the execution of a definitive agreement with respect to such intellectual property.

1.2 On or about July 29, 1999, DATUM consummated a merger whereby DDI became a wholly owned subsidiary of DATUM.

1.3 On or about August 20, 1999, DATUM filed a complaint (the "COMPLAINT") stating claims against GMT/GLASSEY/MCNEIL for, among other things, Breach of Contract, Breach of the Covenant of Good Faith and Fair Dealing, Misappropriation of Trade Secrets and Proprietary Business Information, Trade Libel, Slander and Declaratory Relief.

1.4 DATUM, DDI and GMT/GLASSEY/MCNEIL desire to definitively resolve and terminate the interim arrangements arising from the Co-Inventor Agreement, to avoid the risks and expenses attendant upon litigation and to reach a mutual, full and final compromise and settlement of the parties' matters, claims, causes of action and the like with respect the Co-Inventor Agreement, the Assembly, Distribution and Use of Digital Information Patent, the Controlling Access Patent and the Phase II Technology (as defined below).

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1.5 This Settlement Agreement is a mutual and complete compromise between the parties and is intended as a complete and final resolution and settlement of the respective differences, positions and claims of DDI, DATUM and GMT/GLASSEY/MCNEIL, with respect to the Co-Inventor Agreement, the Assembly, Distribution and Use of Digital Information Patent, the Controlling Access Patent and the Phase II Technology.

SECTION TWO

DEFINITIONS

2.1 The Assembly, Distribution and Use of Digital Information Patent: U.S. Patent No. 5,646,992 issued to DDI on July 8, 1997 for certain data and file protection and encryption technology. One of the products produced under this patent is called the Confidential Courier, which is described as an electronic transmittal envelope which can be opened only by specifically designated persons having the encoded passwords.

2.2 Controlling Access Patent: A US and certain foreign countries patent pending covering the expansion of technology covered by the Assembly, Distribution and Use of Digital Information Patent to include the new technology of geo-positioning and time/data encryption with respect to digital data and file assembly, distribution, use and access.

2.3 Phase II Technology - Phase II Technology refers to the method of authentication, encryption and transmission of date/time and/or location data for the purpose of linking together two or more disparate electronic components, such that a trust model is established between them. Such physical elements must individually be capable of computational and cryptographic functionality, but computationally may be isolated from one another. Such electronic components must be physically secure, and communicate with each other over communications channel(s) which may themselves be insecure.

SECTION THREE
TERMS OF SETTLEMENT

3.1 In consideration of the mutual covenants set forth herein, and in full settlement of the claims and causes of action asserted or held by DDI and/or GMT/GLASSEY/MCNEIL under the Co-Inventor Agreement, the parties agree as follows:

3.2 Assignment of Controlling Access Patent: GMT/GLASSEY/MCNEIL assign all rights, title and interest in the Controlling Access Patent and the application therefor, to DATUM.

3.3 Ownership of and License to Use Phase II Technology: DDI and DATUM acknowledges that GMT/GLASSEY/MCNEIL owns all rights, title and interest in the Phase II Technology, but GMT/GLASSEY/MCNEIL hereby grants DATUM a perpetual, non-exclusive, irrevocable, assignable, sub-licensable, worldwide license for use of the Phase II Technology and derivatives thereof, with rights to sublicense, in connection with the Confidential Courier product and other products and technology covered by the Controlling Access Patent.

3.4 Payment: DATUM will pay to GMT/GLASSEY/MCNEIL \$300,000 upon full execution of this Agreement. Payment shall be wired within 24 hours of execution as follows:

Bank Routing No. 121139096

Bank Account No. 01-49350-5

Bank Name: Coast Commercial Bank

Bank Address: 720 Front Street
Santa Cruz, California 95060

3.5 Dismissal of Complaint: DATUM agrees to dismiss with prejudice the COMPLAINT within ten (10) days of the full execution of this Agreement

3.6 Acknowledgment of Rights Under the Assembly, Distribution and Use of Digital Information Patent GMT/GLASSEY/MCNEIL disclaim and waive any rights to the Assembly,

Distribution and Use of Digital Information Patent and the technology described therein and agree not to make, use or sell any products developed using or derived from the Phase II Technology which also include the technology described in or covered by the Assembly, Distribution and Use of Digital Information Patent. GMT/GLASSEY/MCNEIL explicitly acknowledge that they had no participation in the invention or patent application process which resulted in the U.S. Patent No. 5,646,992 issued to DDI on July 8, 1997.

3.7 Co-Inventor Agreement Terminated. In addition and without duplication, upon the execution of this Agreement and payment of the amount specified in paragraph 3.4, above the Co-Inventor Agreement shall be terminated, and this Agreement shall be the only agreement of the parties with respect to the subject matter of the Co-Inventor Agreement and this Agreement. Such subject matter includes without limitation the future payment obligations and division of intellectual property rights set forth in the Co-Inventor Agreement. The parties hereto acknowledge and agree that the settlement payment constitutes the satisfaction in full of any claims by GMT/GLASSEY/MCNEIL for compensation of any kind pursuant to the Co-Inventor Agreement.

3.8 Availability of Injunctive Relief: GMT/GLASSEY/MCNEIL acknowledge and agree that the covenants of GMT/GLASSEY/MCNEIL and the restrictions on GMT/GLASSEY/MCNEIL contained in this Agreement are reasonable and necessary in order to protect the legitimate interests of DATUM, and that any violation thereof by GMT/GLASSEY/MCNEIL or any affiliates would result in irreparable injuries to DATUM, for which damages would not, in and of themselves, be an adequate remedy. Therefore, GMT/GLASSEY/MCNEIL acknowledge and agree that, in the event of a violation or breach by GMT/GLASSEY/MCNEIL or any affiliates of any of the covenants or any of the restrictions contained in this Agreement, DATUM shall be entitled to obtain, from any court of competent jurisdiction, temporary, preliminary and permanent injunctive relief, in addition to any other rights or remedies to which DATUM may be entitled under applicable law or equitable principles, without the necessity on the part of DATUM of having to post a bond or other security and without thereby limiting any other rights and remedies, including the recovery of monetary damages, that DATUM may have hereunder or under applicable law by reason of such violation or breach.

3.9 Release of Claims:

3.9.1 GMT/GLASSEY/MCNEIL's Release of Claims Against DATUM and DDI

GMT, GLASSEY and MCNEIL, for themselves and for themselves and for and on behalf of GMT and any affiliates, related entities, assigns and successors in interest, if any, now or in the future, hereby irrevocably release, forgive and discharge DATUM and DDI and all of their officers, directors, shareholders, partners, agents, employees, representatives, affiliates, parent, subsidiaries, and related entities, assigns and successors in interest, if any, now or in the future (collectively, the "Datum Parties"), from any and all obligations, responsibilities and liabilities relating to or arising out of the Co-Inventor Agreement against the Datum Parties. Notwithstanding the foregoing, DATUM's obligations under this Agreement are expressly excepted from the foregoing release.

3.9.2 DATUM's and DDI's Release of Claims Against

GMT/GLASSEY/MCNEIL: DATUM and DDI agree and acknowledge for themselves and for themselves and for and on behalf of DATUM and any affiliates, related entities, assigns and successors in interest, if any, now or in the future, that GMT/GLASSEY/MCNEIL are released and fully discharged from any and all obligations, responsibilities and liabilities to DATUM or DDI relating to or arising out of the Co-Inventor Agreement. Notwithstanding the foregoing, GMT/GLASSEY/MCNEIL's obligations under this Agreement are expressly excepted from the foregoing release.

3.9 Civil Code Section 1542: With respect to the matters herein stated as the subject of release, the parties hereto do hereby mutually waive and relinquish any and all rights which any of them may have under the provisions of Section 1542 of the Civil Code of the State of California, which Section reads as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

3.10 Attorney's Fees: DATUM, DDI and GMT/GLASSEY/MCNEIL shall bear their own costs and attorneys' fees in connection with their respective disputes and claims settled herein.

SECTION FOUR
WARRANTIES AND REPRESENTATIONS

4.1 The parties hereto warrant and represent that no promise or inducement has been offered or made for this Agreement except as herein set forth, that this Agreement is executed without reliance on any statements or any representations not contained herein, and that this Agreement reflects the entire settlement among the parties. The attorneys of record warrant and represent that they are satisfied that their respective clients fully understand the effect, significance and consequence of this Agreement. The terms, acknowledgments, warranties and representations made herein shall survive the execution and delivery of this Agreement, and shall be binding upon the respective heirs, representatives, and assigns and successors of each of the parties and their attorneys.

SECTION FIVE
NO ADMISSION OF LIABILITY

5.1 The parties hereto acknowledge and agree that this Agreement is entered into as a mutual compromise and settlement which is not in any respect or for any purpose to be deemed or construed as an admission or concession of any liability whatsoever on the part of any of the parties hereto.

SECTION SIX
CONFIDENTIALITY

6.1 The parties agree that this Agreement and its terms are confidential. The parties further agree that the confidentiality of this Agreement and its terms is a material term of this Agreement without which the parties would not have consented to the Agreement. The parties expressly agree that they will not disclose or discuss the terms of this Agreement with any person. GMT/GLASSEY/MCNEIL shall notify DATUM's legal counsel, in writing, of the receipt of any request for the disclosure of any confidential information. GMT/GLASSEY/MCNEIL shall cooperate with the efforts of DATUM to quash such subpoena or other legal process or to obtain a protective order, as DATUM deems appropriate. The parties shall have the right to provide required information concerning this Agreement to investors and potential investors, and to Affiliates in order to enable them to carry out the activities contemplated hereunder and in connection with strategic business needs. Any such disclosure shall be pursuant to a separate agreement of confidentiality between DATUM or GMT/GLASSEY/MCNEIL and any such third parties.

6.2 The parties further agree to maintain the confidentiality of any document or information which has been or is designated as confidential.

SECTION SEVEN
ENFORCEMENT OF AGREEMENT

7.1 If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation arising out of or relating to any of the provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

SECTION EIGHT
MISCELLANEOUS

8.1 This Agreement is subject to, governed by, and shall be construed in accordance with the laws of the State of California.

8.2 GMT/ GLASSEY/MCNEIL represent and warrant that they are the sole and rightful owners of the claims asserted in the dispute described in this Agreement and that any such claims have not been assigned or transferred to any unnamed party. DATUM and DDI represent and warrant that DATUM is the sole and rightful owner of the claims asserted in the COMPLAINT and otherwise herein and that any such claims have not been assigned or transferred to any unnamed party.

8.3 This Agreement is enforceable and binding upon the parties hereto, their successors and assigns, and any agents or others under the control or direction of the parties. Moreover, both parties, as well as the signatories, hereby warrant and covenant that their respective representative signing this Agreement has full authority to bind the parties to the terms of this Agreement.

8.4 The parties may assign all rights and delegate all duties hereunder to an entity acquiring that portion of each parties' business to which this Agreement relates, or to any corporate successor by way of merger or consolidation, provided that the assignee delivers to DATUM or GMT/GLASSEY/MCNEIL, as appropriate, a statement that the assignee assumes the assigning party's obligations hereunder.

8.5 This Agreement constitutes and contains the entire understanding and agreement of the parties and cancels and supersedes any and all prior negotiations, correspondence and understandings and agreements, whether verbal or written, between the parties respecting the subject matter hereof. No waiver, modification or amendment of any provision of this Agreement shall be valid or effective unless made in writing and signed by a duly authorized officer of each of the parties.

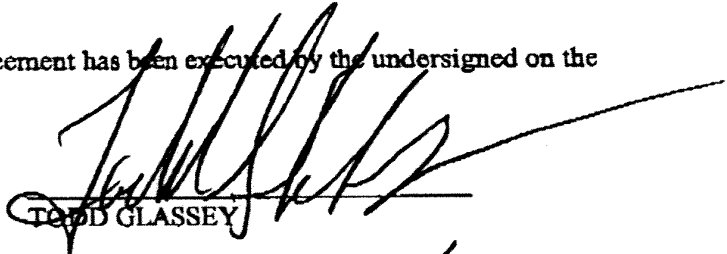
8.6 The provisions of this Agreement are severable, and if one or more provisions should be determined to be judicially unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable. The provisions of this Agreement shall be construed as separate provisions covering their subject matter in each of the separate counties and states in the United States in which DATUM transacts its business; to the extent that any provision shall be judicially unenforceable in any one or more of those counties or states, that provision shall not be affected with respect to each other county or state, each provision with respect to each county and state being construed as severable and independent.

8.7 The parties agree to take any acts, and execute any further documents, that may be reasonably necessary to accomplish and effect the terms of this Agreement.

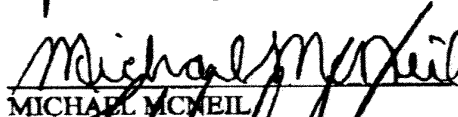
8.8 This Agreement may be executed in counterparts and by fax, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement has been executed by the undersigned on the dates below indicated.

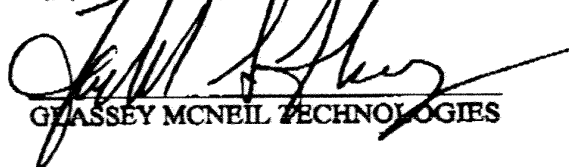
Dated: November 19, 1999


TODD GLASSEY

Dated: November 19, 1999


MICHAEL MCNEIL

Dated: November 19, 1999


GLASSEY MCNEIL TECHNOLOGIES

Dated: November __, 1999

DATUM, INC.

Dated: November __, 1999

DIGITAL DELIVERY, INC.

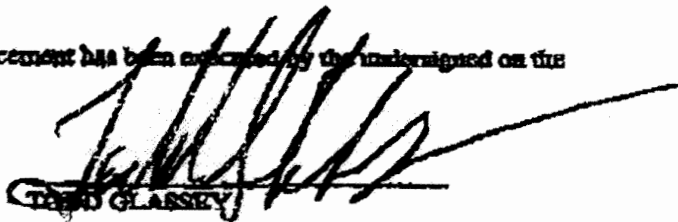
8.6 The provisions of this Agreement are severable, and if one or more provisions should be determined to be judicially unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable. The provisions of this Agreement shall be construed as separate provisions covering their subject matter in each of the separate counties and states in the United States in which DATUM transacts its business; to the extent that any provision shall be judicially unenforceable in any one or more of those counties or states, that provision shall not be affected with respect to each other county or state, each provision with respect to each county and state being construed as severable and independent.

8.7 The parties agree to take any acts, and execute any further documents, that may be reasonably necessary to accomplish and effect the terms of this Agreement.

8.8 This Agreement may be executed in counterparts and by fax, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement has been executed by the undersigned on the dates below indicated.

Dated: November 11, 1999


THOM GLASSEY

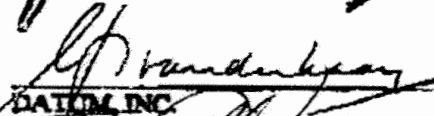
Dated: November 19, 1999


MICHAEL MCNEIL

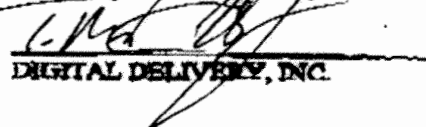
Dated: November 19, 1999


GLASSEY MCNEIL TECHNOLOGIES

Dated: November 29, 1999


DATUM, INC.

Dated: November 29, 1999


DIGITAL DELIVERY, INC.

APPROVED AS TO FORM AND CONTENT:

STRADLING, YOCCA, CARLSON & RAUTH

Dated: November __, 1999 By:


John F. Cannon

Attorneys for DATUM, Inc. and Digital Delivery Inc.

BOSSO, WILLIAMS SACHS, BOOK, ATACK &
GALLAGHER

Dated: November 19, 1999 By:


Jason R. Book, Esq.

Attorneys for Glassey-McNeil Technologies, Inc.
Todd Glassey, and Michael McNeil.

EXHIBIT 6

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8
9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO DIVISION**

12 TODD S. GLASSEY and MICHAEL E.
13 MCNEIL,

14 Plaintiffs,

15 v.

16 SYMMETRICOM, INC.,

17 Defendant.

Case No. 13-cv-04662 NC

**ORDER DISMISSING CASE
WITHOUT PREJUDICE**

Re: Dkt. Nos. 42, 43

18
19 Plaintiffs' unopposed request that the Court order this case dismissed without
20 prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) is GRANTED. *See* Dkt.
21 Nos. 42, 43. The clerk is ordered to terminate case No. 13-cv-04662 NC.

22 IT IS SO ORDERED.

23 Date: May 6, 2014

24 

25 Nathanael M. Cousins
26 United States Magistrate Judge
27
28

EXHIBIT 7

RECEIVED

FILED

AUG 25 2014

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

(San Francisco Division)

TODD S. GLASSEY, In Pro Se
305 McGaffigan Mill Road
Boulder Creek, California 95006

And

MICHAEL E. MCNEIL, In Pro Se
PO Box 640
Felton CA 95018-0640

Plaintiff,

vs.

MicroSemi Inc; The IETF and ISOC, and
the US Government and Industry
partners (including but not limited to
Apple, Cisco, eBay/Paypal, Google,
Juniper Networks, Microsoft, NetFlix,
and Oracle), USPTO ALJ Peter Chen Esq,
and two individuals (Mark Hastings and
Erik Van Der Kaay) as "NAMED DOES"

Defendants.

) CASE NO. CV-14-3629-EDL

)
) JUDGE E. D. LaPorte, Courtroom E,
) 15th Floor USDC San Francisco

) **COMPLAINT**

) Sherman Act violation, Fourth, Fifth,
) Seventh and Fourteenth Amendment
) Violations; Foreign Antitrust Act
) violation; RICO Act claims against
) Microsemi and IETF; Copyright Fraud
) (IETF); Patent Infringement (IETF et
) AL.); Tortuous Interference; Assorted
) Patent (Fiduciary) Frauds;

) Illegal use of FISA Act provisions in
) those violations by Defendant USG

) **Jury Demand Endorsed Hereon**

For this Complaint, Plaintiff Todd S. Glassey and Michael E McNeil state as follows:

Defendants, Does, Patents, and Settlement List

1. Plaintiffs are individuals who were, for all times relevant hereto, residents of Santa Cruz County, California.

2. Defendant Microsemi, Inc. ("**Microsemi**"), is, on information and belief, a Delaware corporation with its principal place of business in Aliso Viejo California. This under Bivens includes the "unknown Officers and those controlling the operations of the Defendant Microsemi" as individuals under the Bivens precedent¹.

3. Defendant Symmetricom, Inc. ("**Symmetricom**"), was, on information and belief, a Delaware corporation with its principal place of business in Irvine California.

4. Defendant Symmetricom did, on information and belief, acquire the assets and liabilities of Datum, Inc. ("**Datum**"), in 2002 through a Merger creating a new Symmetricom Corroboration as the successor to Datum.

5. Defendant Erik Van Der Kaay ("**EVDK**") is by information and belief the CEO and Chairman of the Board of the Datum Corp (the umbrella Corp holding the Business units of Datum and its acquired companies);

6. Defendant Datum did, on information and belief, acquire the assets and liabilities of Digital Delivery, Inc. in or about July 1999.

7. Defendant Digital Delivery Inc ("**DDI**") is a Massachusetts based corporation which Plaintiffs retained for Patent Agency legal representation;

8. Defendant Mark Hastings ("**Hastings**") is by information and belief the President and Founder of DDI and later was made the President of the BanCom (Bandwidth Compression) division of Datum Inc;

9. Both Defendants, Hastings and Van Der Kaay are direct signatories to Glassey and McNeil contract documents with both corporations and both names

¹ (*Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971))

appearing on the DDI settlement and Van Der Kaay's on the TTI Settlement as well herein;

10. Defendant Microsemi ("**Microsemi**") is, on information and belief, the successor in interest for any liabilities of Symmetricom, Datum and DDI to Plaintiffs. As such any use of the predecessor name for Microsemi is only intended to indicate the time frame for the action or claim in this ongoing fraud and Sherman Act Violation.

11. The Defendant Internet Engineering Task Force ("**IETF**") is on information and belief, a Industry-Wide Technology Standards Collective and is operated under the banner and law of the US as a subdivision of the Washington DC Corporation called "The Internet Society".

12. The Internet Society ("**ISOC**") operates the IETF is as the world's Global Standards Organization for the Internet and it is the IETF who has produced the majority of the network standards that applications which infringe on the rights here were written from.

- a. This definition of the IETF includes their management under Bivens and membership in the entire IETF as a whole and in several particular groups including but not limited to the **IETF Intellectual Property Rights Working Group (IPR)**, **IETF GeoSpatial Controls Working Group (GeoPriv)**, the **IETF or Generic Network Working Group (IETF@IETF.ORG)** where everyone talks about everything and time-related ones in both **PKIX WG** (the PKI working group areas) and those pertaining to other protocols like **Secure DNS (DNSSEC)** which uses the Infringing IP extensively as just one of many examples of IETF infringements;

13. The Defendant Internet Society ("**ISOC**" - www.isoc.org) itself includes such other child-organizations as the Internet Corporation for Assigned Names and Numbers ("**ICANN**") and the American Registry for Internet Numbers ("**ARIN**") and its foreign instances.

14. Because of the ISOC and IETF dependence on Computers running "Infringing Networking Drivers and Applications" ("**INDA**") the ISOC as well as the IETF, the ARIN, the ICANN, and all other operating infrastructure itself are named collectively as ***members of the ISOC Family herein***;

15. And that this matter pertains as such to the ISOC all of its many arms and their publications as well as all electronic events performed online by them since the Cease and Desist Order was served on ISOC and its IETF operating unit through their IETF IPR Filing Process in 2004 (their method of service); As such that the IETF and ISOC are named actual defendants to the matter herein;

The following Parties are NAMED AS DOES in accordance with provisions of the BIVENS² ruling

16. The Defendant "United States Government" ("**USG**") from Legislative to Administrative branches, because of its dependence on Computers running "INDA" is named as a Defendant DOE and since the full scope of the names therein are unknown to the Plaintiffs at this time this naming convention meets the strict DOES limitations for the US District Court';

² *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971),

17. Further the following Federal Agencies and Roles are known but the parties filling those roles are unknown at this time and so they are also identified directly as DOES in this matter;

- a. The US Department of Commerce ("**DoC**") and its three key subdivisions (**US PTO** - Patent and Trademark Office, **US NTIA** - National Telecommunications Infrastructure Administration, and **US-NIST** - The US National Institute of Standards and Technology **and in particular its Information Technology Laboratory (NIST-ITL)**) are entities of the United States Government;
- b. **Defendant Peter Chen Esq.**, under Bivens is named as an actual defendant and not a DOE although he now is employed by USPTO, and so is named both under their naming as a DOE and as a real person; Additionally we name Defendant Peter Chen's Lawfirm at the time of the alleged acts herein of Lathem Watkins LLP as a DOE based on Bivens standing for the parties within the firm actually involved (a matter which Discovery will properly disclose);
- c. The **US Department of Energy** as a consumer in operating the US Smart Grid and various other research projects which make it an infringer;
- d. The **US Department of Transportation** and the **US FAA** Flight Tracking and Messaging Systems using infringing technologies nationally herein;
- e. The **US Treasury** as a consumer of the infringed properties and the oversight provider for its agencies the **SEC** as well as the **IRS**;

- f. The **US Department of Defense ("DoD")**;
 - i. Any and all parties (**Boeing, Macdonald/Douglas, Lockheed Corp, General Atomics, et Al**) building or selling Drones or components thereof to the US Government;
 - ii. Any and all parties building selling or transporting **Ballistic Sensor Fused or Controlled Munitions or Munitions Delivery Systems** including but not limited to those ballistic devices used to place objects into low and medium orbital tracks;
- g. The **US Intelligence Community** (all agencies and those attached therein).
- h. **The Office of the President of the United States of America ("POTUS")** and **the operations of the Whitehouse Webserver itself**;
- i. The **Honorable Mr. Jerry Brown, the Governor of the State of California and the State of California itself under** 42 U.S.C. § 1983 and its provisions for Civil Litigation against a State under the ***Enforcement Act of 1871*** and other statutes;

Industry Members of the IETF and ISOC

18. The following are named members of the IETF who all either both use and operate within the IETF itself a formal presence and who both use these controlled Intellectual Properties controlled under the "TTI and DDI Settlement Documents" inside their products and corporate operations both; They include but are not limited to

- a. **Apple Corp**, A Delaware Corporation including all of its external and foreign corporations or assets;
- b. **Cisco Corp**, A Delaware Corporation including all of its external and foreign corporations or assets;
- c. **eBay and Paypal**, each a Delaware Corporation including all of its external and foreign corporations or assets;
- d. **Google**, A Delaware Corporation including all of its external and foreign corporations or assets; and all of its sub-division and free-standing corporations operated outside of the Google brand;
- e. **Juniper Networks**; A Delaware Corporation including all of its external and foreign corporations or assets;
- f. **Microsoft Corporation** a Delaware Corporation and all of its free-standing business units and external corporate assets;
- g. **and Oracle Corp**, A Delaware Corporation including all of its external and foreign corporations or assets;
- h. Additionally there is one other DOE to name as a corporation; That being The **Thales Group ("Thales")** (a Delaware Corporation) the landed US Base of the larger Defense Systems contactor "The Thales Group" of Cedex France, and its **eSecurity Division**, A Delaware Corporation called **"E-Security, Inc"** (nee "nCipher Inc" of Cambridge England).
- i. The eSecurity Division of the Thales Group US operations is located in the State of Florida; and claims against Thales Group and in particular

to the eSecurity Division pertain to its use of TTI Settlement IP and breach of the TTI Settlement through its partner Microsemi;

PATENTS

19. US6370629 ("**629**") the US patent filed in Plaintiffs behalf by Mark Hastings of DDI, **EP-0-997-808A3**, the Abandoned instance of the US6370629 filed in the EU, **BR9904979** the abandoned instance of '629 filed on Plaintiff's behalf in the Nation of Brazil; **CA2287596** is the abandoned filing of US6370629 in the Nation of Canada, as **2000163379** is the number of the '629 filing in Japan, and finally the South African filing **ZA1999/06799**
20. US6393126 (aka "**3126**" also known as US 20020056042 A1) "a System and methods for generating trusted and authenticatable time stamps for electronic documents" ("**3126**"), the US patent filed by EVDK showing himself as inventor of IP "he licensed limited derivative uses of from Master Designs for the TTI" belonging to Plaintiff Glassey; Likewise **CA2398415** (CAI2398415 A1) is the unauthorized filing of US6393126 in the Nation of Canada, it exists in the EU (**EP 1279287** A1) and was expanded by re-filing as the **US 20020056042 A1 WO** patent application which did issue;

SETTLEMENT AGREEMENTS

21. **DDI Settlement** - pertains to the Pre-paid legal service agreement with DDI (the Co-Inventor Agreement) and Datum's limited use of the patents' protected IP while its continuing role as Fiduciary persists. The Settlement

Agreement is the other half of the Co-Inventor Agreement Document Pair that is described in detail in the Co-Inventor Agreement.

22. **TTI Settlement** ("**TTI**") - pertains to the Datum use of the Glassey TrustedTiming Infrastructure and its limited use of the IP in the United States and State of California legal requirements therein.

23. **Co-Inventor Agreement** - The PrePaid Legal Service Agreement and Patent Assignment Documents (self explanatory) - the original Co-Inventor Agreement to was used to create a patent filing, which became the shared use patent US63709629 with DDI and its successors as the permanent fiduciaries in charge and responsible for the costs in those actions.

JURISDICTION AND VENUE

19. This Court has original subject matter jurisdiction over this suit pursuant because of a number of issues the first of which is that this matter pertains to 28 USC § 1338 because the matters in it relate to patents, International filing of patents and copyright infringements; It also relates to Sherman Act and rulings from the US Supreme Court (MGM Studios v Grokster) and other key rulings which State Courts do not have the authority to apply in this matter.

20. This subject matter pertains to the use of the US Foreign Intelligence Service Act to create a set of "Impossible hurdles" for Plaintiffs to cross to bring this into Federal Court which would stop anyone retaining private counsel through the service of a FISA Act Warrant or National Security Letter in the matter herein;

21. This Court has subject matter jurisdiction over the remaining claims at issue in this suit pursuant to is supplemental jurisdiction as codified by 28 USC § 1367 because they form part of the same case and controversy as those claims relating to patents and their infringement through licensing issued via copyright in Global Network Standards for the use of these intellectual properties.

22. This Court has personal jurisdiction over this matter because the Plaintiffs reside in this judicial district and a substantial portion of the events below took place in this district.

23. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the acts or omissions giving rise to the claims at issue in this dispute occurred in this district.

24. Additionally under the construct of ***Subject Matter Jurisdiction***, because this case uniquely involves both US and a number of both legally and illegally filed International Patents it is both a Sherman Act and the Foreign Antitrust Act with their provisions which now control large parts of the US National Critical Infrastructure this case can only be heard before the US District Court since no State Court has authority to issue Orders against the US Government for patent and international antitrust matters.

25. Finally under Jurisdiction, this matter asks the US District Court a unique and novel question of Federal Law "as to whether Patent Protections in an issued Patent can be set aside by a copyrighted Network Technology Standard under the Defendant IETF's claim that 'Copyright Section 107 Exemptions also allows them to infringe on patent protections on software products they designed the very uses for themselves'".

26. The assertion of this litigation is that this is a statement which on its face directly violates the US Supreme Court ruling in MGM Studios v Grockster while they (the IETF) continue to publish under their own copyright against their use of the technology, a license we allege is "intended to cloud or make impossible to enforce **any Software patent protections globally** against those IP's used without authorization in those standards" and on which they the IETF have since made the world's computers dependent.

27. This question is amplified by the commentary that the IETF in fact uses this same Intellectual Property in the form of programs inside its infrastructure without authorization daily to operate the IETF's computers, and that this was done after codifying it into the global standards for all Local Area Networking today.

28. The question posited on the court by this suit is now that this was formally done to the Plaintiff's IP's and re-licensing enforcement rights by Defendants Microsemi and IETF and their third-party infringers, the question therein before this court is "what are Plaintiffs' recourse herein?".

STATEMENT OF OPERATIVE FACTS

29. This Complaint is being brought in the United States District Court because there are multiple issues in dispute between multiple parties including the US Government and a Global Standards Organization which require the Court to construe the claims of certain US Patents and a set of alleged frauds therein at the Fiduciary level, the relationship of those Patents to US Copyrights when a Global Standards Agency takes that IP and weaves it into the process descriptions of their networking protocols.

30. And finally the effect under MGM Studios v Grokster and other precedents pertaining to Intellectual Property protections what the recourse is against the Standards Agency and their Membership for these actions which force anyone implementing programs that meet that standard to infringe.

31. And additionally for their (the Standards Agency and its parent the ISOC) use of those infringing programs in their own operations.

32. The allegation of the claims is that because the IETF further encoded those protected methods from a US or Foreign Patent into their Standard, this makes anyone using that standard equally culpable for their actions as third-parties to the alleged conversion of private property this suit alleges.

The Complaint

33. This complaint is based on the complaint, supporting evidence exhibits, declarations and memorandums of points and authorities, precedent law, US national IP Policy, *and is fully supported by the US Government mandatory requirements per the TRIPS/PCT treaty agreements.*

34. Additionally aspects of this matter pertain to "a set of alleged frauds which the primary defendant Microsemi committed with in concert with the Global Standards Organization IETF (the Internet Society) to prevent Glassey and McNeil's enforcement demands previously that the IETF and everything it produced since 2004 is based on an active infringement in its operations" and they cease and desist any use of the IP. As such a subsidiary claim against all of the online networking standards produced is included as well.

Defendant IETF and their use

35. The Defendant IETF (The Internet Engineering Task Force) is a global standards organization who operates their infrastructure across the Internet as part of their charter so they use all of the standards they create in the form of programs and infrastructure inside their frameworks. The IETF is an operating unit of the Internet Society and they bear full financial responsibility for its operations and these alleged frauds herein we assert.

36. The IETF has no authorization to use the IP for its own uses and because of that it "likewise cannot publish across its framework anything which infringes because it cannot use that IP inside its own framework".

37. This then is the Catch-22 the IETF has created. They can no-longer operate without infringing the Phase-II Technology Licensing Rights the Plaintiffs are the sole owners of because it is inside the machines they created the standards for.

38. To summarize the claims against IETF and ISOC: The unauthorized use of the Patent-Protected Intellectual Properties is then alleged in both 1) the IETF operating infrastructure and then 2) as direct additions to their documents themselves as the "methods and processes of the protocols they are standardizing"; We further state that this has already been done for a number of the World's Internet Standards such that it created three billion daily infringers; the net-effect is this single Patent now controls (or there are claims for) most all online commerce globally and the loss amounts respective of that include but are not limited to the direct infringements "for any and all Local area and Internet Application Systems" in use globally today.

39. The functional result is that everyone using the Local Area Networking Protocols outside the Internet is also an infringer of those same IP rights;

40. That because of the alleged fraud inside the very standards process itself, an action which could have been stopped by defendant Microsemi as far back as 2004 when the first "Acknowledgement of Glassey and McNeil rights requests were submitted to then 'Symmetricom Corp' as the predecessor to Microsemi", both the IETF (and its membership) and Microsemi equally bear responsibility under the precedents set in MGM Studios v Grokster and others, and are liable herein for any and all damages resulting from their collective and individual actions.

Microsemi blocked verification of all of Plaintiffs verification requests

41. Rather than perform its role under the contract Symmetricom Staff refused to confirm or even respond to the parties we requested they confirm the settlement and our rights to.

2013/2014 Breaches

42. Finally that to Transfer the Settlement Agreement and the Role of Fiduciary codified in it that (see CONTRACTS/DDI-Settlement) Microsemi must formally and publicly assert its liability or no such transfer occurs. Microsemi has refused all communication and demands it agree to the terms of the Contract as the Settlement Agreement requires and that has created a new cause of action in this matter in 2014 which tolls the statutes on all other acts in this matter as well.

43. As such it is in breach of the Settlement Agreement as well currently supporting these claims.

HISTORY: Previous Litigation

44. Prior to the filing of this Complaint in this Court, the Plaintiffs and Symmetricom were parties to a California Superior Court suit captioned *Michael E. McNeil, et al. v Book (Symmetricom) et al.*, which was dismissed without prejudice to any of the claims therein and proceeded as that Court's Case No. CV 165643 (the "State Court Lawsuit").

45. This filing is the transfer of that lawsuit to the Federal Jurisdiction in full because the State Court Lawsuit could not continue to be prosecuted in California Superior Court because, as that case developed, it became apparent that the California itself as the State was conflicted as a major infringer and further the Superior Court would be required to construe "US Patent and simultaneous copyright claims" which no Federal Court has ruled in yet, and perform this ruling against parties in a number of jurisdictions (*the IETF and its international members) to render any judgment on the claims for relief Plaintiffs brought, and that the California State Court lacked the subject matter jurisdiction to do so.

46. Further since the Federal Government is the signatory to the TRIPS agreement the international nature of the abandoned instances of US6370629 patents filed in Japan, Brazil, Canada, South Africa and the EU are only actionable under the TRIPS treaty in the US and only the US District Court has standing in an international treaty.

HISTORY: Plaintiffs' Relationship with Datum

47. In or about October 1997, Plaintiff Glassey approached Datum through Davey Briggs VP of Marketing for the Beverley Massachusetts division of Datum. The purpose of the conversation was to retain Datum to "manufacture a component of the time controls" for an email and document control gateway of Glassey's design. The design was called the Trusted Timing Infrastructure and creates a set of evidence-to-transaction models and the technology to implement them.

48. Initially Datum said "no to building the high-end components of the system" but was very interested in the component level Trusted Local Clock Module as a potential mass-market addition to Datum's existing Board Level Timing Products so they referred GLASSEY to the San Jose California division called BANCOM.

49. At Bancom/Datum Glassey interfaced initially with Mitch Stone ("**STONE**") the VP of Marketing; Glassey's request to Datum if he was right would open new end-user and OEM markets to Datum in the board level timing products area and to further to that Stone opened detailed market analysis discussion between Plaintiff Glassey and Datum, concerning whether Datum and Glassey might undertake broader business efforts together; To allow free and open discussion about Glassey's IP Datum and Glassey entered into a mutual nondisclosure agreement in November 1997 (the "**Datum NDA**"). Mitch Stone processed that NDA.

50. In the months following the execution of the Datum NDA, Glassey and Datum (through Mitch Stone as the principal point of contact) had a variety of conversations and did a variety of industry analysis efforts to determine the total potential of the market sector for this time-stamping evidence system; this effort

included two road trips on which Glassey and Datum VP of Marketing Mitch Stone ran the customer survey with exciting results.

51. The next step was a meeting "with the division presidents of all of Datum and a Board Meeting" which was to happen at a local trade show in Atlanta; to Attend the meeting Glassey was flown out to present the total of the potential to the Board and officers of the corporation for the Trusted Timing Infrastructure components he asked them to build for him. The meeting produced full approval for the joint-development effort.

52. At this point Datum initiated aggressive discussions with Glassey about product design of their systems and how his infrastructure could be used to advance their existing BC635 GPS based timing card as a stand alone and clustered time service module.

53. This excited Datum CEO Erik Van Der Kaay (EVDK); EVDK called Glassey and told him the deal was on. He asked Glassey to both incorporate and bring in at least one more engineering member for his team and promised both guaranteed financing through a monthly payment process to let GMT just focus on the engineering as well as longer term reseller status.

54. To meet that demand, in early 1998 Plaintiff Glassey was joined in his commercial efforts by Plaintiff McNeil in Glassey's new company known as Glassey-McNeil Technologies or "**GMT**".

55. To support Datum running Payroll for GMT on or about May 4, 1998, Plaintiffs each executed a consulting agreement with Datum for the purpose of securing certain technical consulting services (the "**Datum Consulting Agreements**"), true

and correct copies of which are attached as Exhibits CONTRACTS:Glassey and Exhibits CONTRACTS:McNeil hereto.

56. The Datum Consulting Agreements were effective from May 4, 1998, to July 4, 1998, and during that period Plaintiffs provided services to Datum exclusively relating to market analysis to support Datum's developing e-commerce division.

57. Upon the expiration of the Datum Consulting Agreements, Plaintiffs and Datum agreed to continue to work together without further written agreements with the understanding, based on the existing Datum NDA, that Plaintiffs would own any and all intellectual property developed by them or shared by them during the term of the continuing relationship and that Plaintiffs would be independent contractors for Datum.

58. Among the tasks Plaintiffs agreed to take on as independent contractors for Datum after July 4, 1998, were the identification of potential acquisition targets for Datum as it sought to expand its e-commerce business.

HISTORY: Plaintiffs' Relationship With DDI

59. From approximately December 1997 onward, Plaintiffs worked to develop other relationships in the industry for the purpose of commercializing their time control technologies.

60. One of the companies that Plaintiffs developed a relationship with was Digital Delivery Inc ("DDI"). Glassey and DDI President Mark Hastings were talking about adding some timing controls to DDI's product suites and so then entered into a Non-Disclosure Agreement (Jun 1997) to further those discussions.

61. Later but under the NDA Glassey disclosed the scope and design of his GeoLocation Controls and Location Based Policy Services to Hastings as his new patent

application; This conversation took place in the employee second floor lounge at Westlaw Main with Westlaw Employee Ruven Schwartz Esq and Datum VP Mitch Stone present. Hastings had accompanied Glassey and Stone to Westlaw to discuss time services and Glassey's Trusted Timing Infrastructure with them as a product potential.

62. Hastings was excited about the idea of using secure time and location information (physical, logical or virtual) as a control aspect of a policy switch. This can be used for many other key applications as well so he became very aggressive with Glassey about getting these 'new features' patent protected and added to Confidential Courier at all costs.

63. One weekend in later August of 1997 Glassey was approached by DDI president Mark Hastings about his (Hastings) acting as Glassey's Patent Agent for the filing of the location based service patent. Glassey initially didnt trust the situation and because Hastings was formally represented by Richards and Fish and they would be representing Glassey before the PTO through Hastings it seemed believable.

64. There were numerous discussions between Glassey and Hastings about this including one key one where it was finally agreed that "with Richards and Fish as counsel of record that Hastings could represent Glassey before the PTO".

65. Under the NDA between Glassey and Hastings, the Plaintiffs turned over the initial Intellectual Properties to the Agent (Hastings and DDI) for the creation of the filing documents for the USPTO;

66. At this Time DDI president Mark Hastings and his counsel from Richards and Fish approached Glassey with a new plan. The "new plan" was that rather than Hastings filing a new patent for Glassey which he would sublicense from Glassey he

would file an amendment to the one he already had and Glassey would share the enforcement rights against its IP through a subsidiary agreement;

67. This was a 100% reversal of the roles under which the original agreement was consummated. Because of this Glassey again was very uncomfortable about and said no initially; it was only after a number of further conversations and Glassey's being assured by Richards and Fish ***the patent would issue quickly*** Glassey agreed.

68. Thus the amended instance of the Hastings "Confidential Courier" patent ("992") was filed in 1998; Everything was fine initially although Glassey and McNeil were concerned about how little of the original ((2 technology one could identify in the filing but it was early in the process and the initial Examination was a year away or so Glassey was told so we just waited.

69. As part of his work with Datum Glassey had introduced Hastings to Datum formally; In early 1999 things changed.

70. Hastings immediately stopped answering questions about the patent's filing and in July in violation of the Co-Inventor "E Assignability Section Hastings reassigned the patent to Datum and sold them Digital Delivery Inc taking a job replacing the then incumbent president of the BANCORM Division of Datum where Glassey's work was done.

71. As to how he did that when Richards and Fish filed the patent originally they omitted the agreement which said the assignment was only valid for one year (in the Co-Inventor Agreement) from the filing and improperly filed it as ASSIGNED instead of CONDITIONALLY ASSIGNED. This allowed Hastings to sign on the reassignment without Plaintiffs Signature. This was corrected with the attached EXHIBITS: PTO-Correction-to-629 (USPTO correction to original filing status).

72. Thus the Federal Record for the original filing was finally corrected on August 6th 2013 to reflect the original assignment as conditional; Glassey's sole purpose for retaining DDI was to get a low cost guaranteed filing in half a dozen jurisdictions and to get the patents issued as soon as possible. The new amended instance of the original DDI patent was to be filed with U.S. Office and the foreign instances agreed upon later (Brazil, EU, Japan, Canada, and South African) as the **Controlling Access Patent** and DDI and Plaintiffs sought to formalize an agreement which would allow for the most prompt filing of the application for the Controlling Access Patent.

HISTORY: The 1998 Pre-paid Legal Services Contract ("The Co-Inventor Agreement")

73. To enable this global patent filing activity effective on or about October 26, 1998, Plaintiffs and DDI entered into a "pre-paid legal services" agreement known as the **Co-Inventor Agreement**, a copy of which is attached hereto as Exhibit:Co-Inventor-Agreement.

74. The Co-Inventor Agreement retains Hastings and his company Digital Delivery Inc of Massachusetts ("DDI") to act as Plaintiffs' Patent Agent with full legal control and power of attorney relative to the limited area of patent filings.

75. According to Recital D of the Co-Inventor Agreement, its purpose was:

[T]o allow the Controlling Access Patent application to be submitted as early as possible and prior to a definitive agreement between the parties with respect to each party's rights to exploit the Controlling Access Patent, the respective mutual and exclusive rights to the underlying or derivative technology, methodology, or other patentable subject matter contained or referenced in the Controlling Access Patent, and the compensation to be paid by

Digital to Glassey-McNeil for assignment of certain rights therein to Digital.

76. Recital A of the Co-Inventor Agreement commemorated DDI's ownership of the Confidential Courier product and its underlying patent ('992 patent). This is very important when considering how much of the underlying intellectual property from the original patent went into the filing or amendments to US6370629, a number which approaches zero in retrospect, meaning all of US6370629 is in fact PHASE-II technology;

77. Paragraph 1.C. of the Co-Inventor Agreement commemorated that Plaintiffs developed and provided to the Controlling Access Patent application geolocation Controls and Location Based Services known as "**Phase II**" a Term of Art meaning a system providing both physical location information but also very accurate time with phase matching data for aligning cryptographic heartbeats across a network or distributed framework. One very powerful source (though only a single example) of providing such time and location data is obviously the US Governments GPS sources.

78. Thus "Phase-II" technologies provides for a new level of authentication over the basic services Hastings had built into his existing patent. From the data model perspective Phase-II technology represents an authentication schema concurrent with industry standards in cryptography³

79. Paragraph 2.A. of the Co-Inventor Agreement provided further that, "[DDI] acknowledges that the Phase II technology is solely and exclusively the idea and invention of [Plaintiffs]."

³ as an example we list one Phase II authentication schema description - "a cryptographic signing and verification process with the transmittal of time and geographic positioning information that allows a legally indemnifiable degree of trust to be established in the time and geographic positioning information thus conveyed." but there are a number of others as well.

80. The Co-Inventor Agreement was designed to be a work-in-progress agreement and was to be replaced in form by a larger agreement. One which codified Plaintiffs' rights to the IP and their third party enforcement rights (any and all uses) for the IP that they purchased the pre-paid legal services for.

81. The Co-Inventor Agreement explicitly contemplated that a future "definitive" agreement would be entered among the parties concerning the compensation to be paid to Plaintiffs as well as the parties' mutual and exclusive rights to the Controlling Access Patent within 365 days of the signing. At that time the Provisional Access and use Rights to both the original filing and Hastings' 992 patent became open.

82. Finally the last possibility documented in the Co-Inventor Agreement was a total failing on Hastings' part where both patents revert to shared by Plaintiffs as the superior rights holder in third-party enforcement of the patent-protected IP.

83. Two days after the Co-Inventor Agreement was executed, on October 29, 1998, the Controlling Access Patent Application (the "**1998 Patent Application**") was filed with the US Patent and Trademark Office ("USPTO"), a copy of which is attached as Exhibits:629-as-authorized hereto and in it McNeil and Hastings and his partner were added to the patent filing so the final title includes all four parties, Glassey as the principal inventor, McNeil as Glassey's senior Engineering Specialist, and Hastings and Willets for their work in the previous patent. As it happens though Willets was never on the original patent and as such shouldn't have been on the final filing as well. This then is allegedly yet another misrepresentation from Hastings in the filing of US6370629.

HISTORY: DATUM purchase of DDI violated the DDI/Glassey Contract "no transfer" terms

84. In violation of the IP transfer provision of the Co-Inventor Agreement Datum and DDI consummated a merger on or about July 29, 1999, whereby DDI became a wholly owned subsidiary of Datum upon which merger Datum became the successor-in-interest to all of the rights and responsibilities contemplated by the Co-Inventor Agreement. As such Datum became the Fiduciary although Glassey and McNeil were both very dissatisfied with the situation.

85. Section Five (5) of the Co-Inventor Agreement protects the Role of Fiduciary in what was called the Non-Assignability Clause; which was violated by Defendants and documented in their July 8K (Exhibits: CONTRACTS:CO-Inventor Agreement) report to the Securities and Exchange Commission of the Department of the Treasury, US Government. The section is excerpted here for reference. The reference is split across both Page 4 and Page five (5) continues with the text of section 5.

What it clearly says is ***that the Patent Ownership and the Role of the Patent Agent & Fiduciary here 'may not be assigned to any third party for any reason without a release from Plaintiffs'.***

5. NONASSIGNABILITY

Digital Patent Contract

The parties hereto have entered into this agreement in contemplation of personal performance hereof by each other and intend that the rights granted and obligations imposed hereunder not be extended to other entities without the other party's express written consent, except that Glassey-McNeil may transfer their interests herein to a corporation whose majority of voting shares are owned and controlled by them. This Agreement shall be binding and shall inure to the benefit of the parties and to their heirs, successors, and assigns.

No such release was ever asked for, contemplated by Plaintiffs or executed, and Datum's solution was simply to immediately attack its new "client" and sue GMT/Glassey and McNeil as individuals and withhold operating funds it as GMT's sole customer at the time owed the company to force an extorted settlement as reported in this complaint.

HISTORY: Robinson Letter

86. Immediately after the prohibited purchase of Digital Delivery Inc., Datum Corp fired Bancom Division President David Robinson (see Notice Letter Exhibits:ROBINSON LETTER where Robinson declares formally "Datum doesn't want your IP" letter from Robinson) and replaced him with Defendant "Hastings" (Mark Hastings).

HISTORY: The 1999 Settlements which Plaintiffs allege "were extorted from Plaintiffs"

87. In addition to Hastings coming on board as an officer of Datum two weeks later in August 1999 Datum without warning filed a lawsuit against Glassey and McNeil ("the dispute");

88. Datum, we allege "also as part of this 'covert plan to bankrupt and steal GMT's assets'" did fabricate claims and filed a California Superior Court Lawsuit against GMT and Glassey and McNeil as individuals; and we assert in doing so violated its role as the Fiduciary which it had to accept to move the patent to it as the "acquiring of any fiduciary responsibility contract" in the US requires;

89. this set of actions were a part of an Overall Plan we assert was created inside Datum by CEO Erik Van Der Kaay and furthered directly by officers of Datum and the Successors Symmetricom and Microsemi both.

90. As part of its manipulating GMT into being forced to accept its terms for settlement Datum froze all payments outstanding to Glassey and McNeil after they had just had Glassey expend significant amounts of personal money developing "designed market analysis and other marketing materials for them". The net effect was they as GMT's sole customer at the time functionally drove GMT into insolvency to extort the two settlement documents; as such they manipulated GMT and both Glassey and McNeil personally to the edge of bankruptcy to extort the two settlement documents, both of which they furthermore allegedly breached;

91. Further because these denial-of-rights actions are still being performed today in the new successor to the Contract, by their refusing to accept the role per the terms of the contract for its transfer to a successor of Symmetricom, they have become as culpable for the Damages as Van Der Kaay and Mark Hastings are for creating them in the first place.

92. Through this set of alleged set of actions by DATUM and Hastings/DDI , and with what turned out to be very bad legal advice from GMT-counsel Jason Book Esq, both Glassey and McNeil were "financially manipulated and coerced into accepting

the settlements that Datum Counsel John Cannon drafted, as such Datum was the sole architect of the forms and their contents in the two settlement documents".

In all instances Book esq. advised Glassey and McNeil that they had no rights and would need to take whatever settlement and scraps Datum was willing to throw to us.

HISTORY: Both Settlement Documents look almost identical

93. John Cannon Esq, Datum's attorney at that time created two settlement documents for this matter. One Settlement for Digital Delivery Inc and a second for the Consulting Work and the IP under it which is the subject of US Patent 6393126 called the TTI Settlement.

94. Both documents used the same template and numbering forms and were drafted by John Cannon Esq of Stadling Locca in Newport Beach California. Hence sections 8.x of the TTI settlement are almost identical to those in the DDI settlement.

HISTORY: 1st Settlement - Controlling Access (DDI Patent Agent services) Settlement

95. The two separate settlement agreements were simultaneously signed in late November 1999, one of which is at issue in this section of the lawsuit and is the so-called **Controlling Access Settlement** also known as the **DDI Patent Rights Settlement/management agreement**, a copy of which is attached as Exhibits:CONTRACTS-DDI-Settlement.

96. The Controlling Access Settlement is the specific document the Co-Inventor Agreement says will replace it in regard to its patent filing efforts.

HISTORY: 2nd Settlement - Trusted Timing Infrastructure (tti) Settlement

The second settlement, the TTI Settlement, is patterned after the first (DDI) settlement as was intended to cover the uses of the limited parts of the Glassey TTI service infrastructure that were the topic of the Settlement itself.

HISTORY: DDI Settlement Breach

97. The Controlling Access Settlement was intended as a cap or umbrella for other documents necessary to complete the deal and properly control the patents and the roles for both parties, but served as the “definitive” agreement between Plaintiffs and Datum concerning the initial compensation to be paid to Plaintiffs; it is very clear about who owns which scope of technology but Plaintiffs would have to wait to see in what form the final patent was issued. It is fully contemplated in 1998 by the Co-Inventor Agreement.

98. Paragraph 2.2 of the Controlling Access Settlement defined the “Controlling Access Patent” for purposes of that agreement to include the 1998 Patent Application as well as foreign patents pending Filing Services under the Fiduciary Role for the Patent Filing Agent herein.

99. Paragraph 2.3 of the Controlling Access Settlement defined “**Phase II Technology**” as:

The method of authentication, encryption and transmission of date/time and/or location data for the purpose of linking together two or more disparate electronic components, such that a trust model is established between them. Such physical elements must individually be capable of computational and cryptographic functionality, but computationally may be isolated from one another. Such electronic components must be physically secure, and communicate with each other over communications channel(s) which may themselves be insecure.

100. Phase II Technology included, and expanded, the technology identified as GPS Phase II technology which had been identified as the property of Plaintiffs in the Co-Inventor Agreement.

101. Pursuant to Paragraph 3.2 of the Controlling Access Settlement, Plaintiffs assigned "all rights, title, and interest" in the 1998 Patent Application and foreign patents based thereon to Datum.

102. However, Datum explicitly agreed in Paragraph 3.3 of the Controlling Access Settlement that Plaintiffs, "own[] all rights, title and interest in the Phase II Technology".

103. Paragraph 3.3 of the Controlling Access Settlement granted Datum a "perpetual, non-exclusive, irrevocable, assignable, sub-licensable, worldwide license for use of the Phase II Technology and derivatives thereof, with rights to sublicense, in connection with the limited scope of the DDI Confidential Courier product and its derivatives".

104. According to the foregoing provisions of the Controlling Access Settlement, Plaintiffs had exclusive rights, title, and interest to Phase II Technology, anywhere in the world, except for the limited rights which Datum had to use that Phase II Technology which was identified in the 1998 Patent Application.

105. Also according to the foregoing provisions of the Controlling Access Settlement which granted all ownership rights in Phase II Technology to Plaintiffs, subject to Datum's license, Datum had an obligation to protect and maintain any and all patents relating to Phase II Technology to which it was assignee.

106. Paragraph 3.6 of the Controlling Access Settlement further clarified the parties' intent that Plaintiffs would continue to have the right to commercialize Phase II Technology.

107. Specifically, Paragraph 3.6 memorialized that Plaintiffs agreed not to, "make, use, or sell any products developed using or derived from the Phase II Technology which also include the technology described in or covered by [Datum's existing Confidential Courier patent]" which under the terms of the original Co-Inventor Agreement was not jointly owned by both DDI and Plaintiffs in the agreement.

108. The above clarifies that Plaintiffs retained all rights to make, use, and sell new "Phase II" Technology which did not also include the technology described in or encompassed by the patent covering the Confidential Courier product; but since that patent (the '992 Patent) had already transited to a shared resource this provision of the settlement was found to be moot and unenforceable.

109. As of the effective date of the Controlling Access Settlement, the 1998 Application had been pending at the US Patent and Trademark Office ("PTO") unchanged from its October 28, 1998, filing date.

HISTORY: The 2001 Controlling Access Patent Application Expansion

110. After the parties executed the Controlling Access Settlement, Datum continued the prosecution of the Controlling Access Patent but ran into disapproval of the original expansion of Hastings' existing patent which was never communicated to Plaintiffs as required under section 8.7 of the Controlling Access Settlement.

111. At no time following the execution of the Controlling Access Settlement were Plaintiffs allowed to be involved in the prosecution of the Controlling Access Patent.

112. At no time following the execution of the Controlling Access Settlement did Datum ever attempt to include Plaintiffs in the prosecution of the Controlling Access Patent or advise them of the status of that prosecution.

113. Following a rejection of the developing application for the Controlling Access Patent once for anticipation and again for obviousness, Hastings under his role as the Bancom Division President at Datum radically expanded the amount of Phase II Technology in the independent claims pursued in the Controlling Access Patent application in its response to office action dated August 20, 2001 (the “**2001 Patent Application Rewrite**”), a copy of which is attached as EXHIBITS:2001-REWRITE hereto.

114. Plaintiffs did not discover the scope and effect of the 2001 Patent Application Rewrite until 2013.

115. As a result of the 2001 Patent Application Rewrite, each of the independent claims Datum pursued in its application for the Controlling Access Patent included vastly more of Plaintiffs’ Phase II Technology than they had ever agreed to license to Datum in the Controlling Access Settlement. This change is detailed in the declaration pertaining to unauthorized changes in the Patent which is attached as EXHIBITS:Patents-2001-rewrite hereto.

116. The consequence of Datum’s radical expansion of the amount of Phase II Technology in the 2001 Patent Application Rewrite was twofold: first, it was sufficient to convince the PTO to grant a notice of allowance of the application and paved the way

for issuance of the patent; and second, it had the effect of subsuming what remained of Plaintiffs' Phase II Technology into the issued Controlling Access Patent and foreclosed them from seeking that patent themselves.

117. The Controlling Access Patent ultimately issued as US Patent No. 6,370,629 (the "**629 Patent**") on April 9, 2002, a copy of which is attached as EXHIBITS:Conformed-Copy hereto.

118. The '629 Patent will be in effect until October 29, 2018.

119. The claims in the 2001 Application Rewrite numbered 12, 18, 21, 25, and 29 were issued verbatim as claims 11, 16, 19, 23, and 27 (respectively) in the '629 Patent.

120. The 629 Patent contained a significant amount of Phase II Technology which Symmetricom had never compensated Plaintiffs for and which Plaintiffs had free reign to license to third parties.

121. Datum, and on information and belief later Symmetricom, prosecuted similar patents to the '629 Patent in other jurisdictions around the world.

HISTORY: Symmetricom's Repudiation Of Plaintiffs' Rights To Phase II Technology

122. In the years following the issuance of the '629 Patent, Plaintiffs attempted to license their Phase II Technology, as embodied in the '629 Patent, to various third parties.

123. Datum (hereafter referred to interchangeably with its parent Symmetricom) interfered with Plaintiffs' attempts to do so by refusing to acknowledge the existence or validity of the Controlling Access Settlement until it produced a countersigned copy for the first time in February 2013.

124. On information and belief, Symmetricom further interfered with Plaintiffs' attempts to license their Phase II Technology by refusing to produce a countersigned copy of the Controlling Access Settlement to Plaintiffs, including refusing to do so in connection with the civil suits relating to the Controlling Access Settlement pending in California Superior Court since 2009 up until the foregoing February 2013 date.

125. These included their actions within the Global Standards Agency called the IETF (Internet Engineering Task Force) who was actively using the infringing IP inside of the systems they were publishing their standards upon as well as including the same infringing IP in the very standards themselves.

126. On information and belief, Symmetricom allowed foreign patents which covered Plaintiffs' Phase II Technology to lapse or become abandoned, despite having the duty to maintain those patents and having knowledge that Plaintiffs relied on them to do so. This constitutes a simple SHERMAN Act event and is clearly an Antitrust action.

COUNT ONE
(Breach of Controlling Access Settlement by
2001 Patent Application Rewrite)

127. Plaintiffs restate the above as if set out in full herein.

128. In 1999, Plaintiffs and Microsemi entered into the Controlling Access Settlement by which they contracted for Microsemi's license to the portion of Plaintiffs' Phase II Technology which was embodied in the 1998 Patent Application and which was incorporated in Microsemi's Confidential Courier .and its derivatives product line.

129. The Controlling Access Settlement is still in force and serves as the basis for Microsemi's continuing claim to be the assignee of the '629 Patent.

130. In 2001 Microsemi breached the Controlling Access Settlement, and its license to Phase-II Technology embodied therein, with its 2001 Application Rewrite to the USPTO, which resulted in the '629 Patent containing claims which read on portions of Plaintiffs' Phase II Technology never contemplated to be so-included by the parties to the Controlling Access Settlement and never licensed by Plaintiffs to Microsemi.

131. As a result of Microsemi's breach of the Controlling Access Settlement, Plaintiffs have been damaged in the amount of licenses they could have received from the Phase II Technology described in the 2001 Application Rewrite, their expectancy therefrom, and/or their lost profits from the 2002 issue date of the '629 through the life of the '629 Patent which will not expire until 2018.

COUNT TWO
(Breach of Controlling Access Settlement For
Failure to Protect Phase-II IP)

132. Plaintiffs restate the above as if set out fully herein.

133. The Controlling Access Settlement contemplated that certain portions of Plaintiffs' Phase II Technology would fall within the claims of Controlling Access Patent and that Microsemi would serve as assignee of that patent.

134. The Controlling Access Settlement also commemorated the fact that Plaintiffs were the sole owners of all Phase-II Technology.

135. As assignee to that Phase-II Technology which fell within the Controlling Access Patent, Microsemi had a duty to protect and maintain all such Phase-II Technology, including, without limitation, maintaining all domestic and foreign patent rights thereto.

136. Microsemi (predecessor) had fulfilled that when in writing it asked Plaintiffs for the patent filing release for South Africa; and in fact threatened litigation if it was not produced for both-parties' use in a timely manner (two calendar weeks). No other releases (for the EU, CA, BR, or JP filings) were requested and as such there is a claim under the Sherman Act based therein here for Antitrust as the Fiduciary operating in a Foreign Nation, and under the Foreign Antitrust Act's very stringent "connection to commerce in the US" these filings, as foreign instances of US6370629 and the related unauthorized filings of US6393126, bring this all together under the Sherman Act under its horizontal customer allocation and territorial allocation agreements, something the Defendants acted in preventing the advancement of each of the foreign filings of US6370629 as well as the foreign unauthorized filings of US6393126 entail.

137. Microsemi has breached its duty to maintain the Phase-II intellectual property by allowing certain foreign patents covering Plaintiffs' Phase-II Technology to lapse.

138. As a result of Microsemi's breach of its duty to maintain the patents covering the Phase-II Technology, Plaintiffs have been damaged in an amount to be determined at trial by the global inclusion of this protected IP into Internet and Networking standards. As a result of this the entire world has become an infringer into this IP and its controls.

COUNT THREE
(Unjust Enrichment - Microsemi)

139. Plaintiffs restate the above as if set out fully herein.

140. In 1999, Plaintiffs and Microsemi entered into the Controlling Access Settlement by which they contracted for Microsemi's license to the portion of Plaintiffs' Phase II Technology which was embodied in the 1998 Patent Application.

141. In 2001 Microsemi submitted the 2001 Application Rewrite to the USPTO, which resulted in the '629 Patent issuing containing claims which read on Phase II Technology never contemplated by the parties to the Controlling Access Settlement and never licensed to Microsemi by Plaintiffs.

142. As a result of Microsemi's unilateral and unlawful expansion of the scope of the Controlling Access Patent, and its status as assignee of that patent, Microsemi has been unjustly enriched in the amount that it has benefitted in any way from the Phase-II Technology not included in the 1998 Patent Application.

COUNT FOUR
(Tortuous Interference With Prospective Economic Advantage - Microsemi)

143. Plaintiffs restate the above as if set out fully herein.

144. Plaintiffs are the sole owners of Phase-II Technology with the limited exceptions of Microsemi's license rights as delineated in the Controlling Access Settlement.

145. Microsemi, as the counterparty to the Controlling Access Settlement, had actual knowledge of Plaintiffs' rights to all Phase-II Technology, subject to its limited license rights.

146. After issuance of the '629 Patent, Plaintiffs attempted to license rights to their Phase-II Technology with prospective licensees.

147. On information and belief, Microsemi directly interfered with Plaintiffs' attempts to obtain economic advantage from their Phase II Technology by advising prospective licensees that Plaintiffs had no rights to any of the property embodied in the '629 Patent, including all Phase-II Technology therein.

148. Microsemi likewise repudiated the existence of the Controlling Access Settlement to Plaintiffs and to third parties by, among other things, for thirteen (13) years refusing to produce a fully-executed copy of that agreement (until February of 2013).

149. Microsemi's direct and indirect actions were wrongful and done with the intent to deprive Plaintiffs of their business expectancy with prospective licensees.

150. As a result of Microsemi's tortuous interference with their prospective license arrangements, Plaintiffs have been damaged in an amount to be determined at trial.

COUNT FIVE
(Declaratory Judgment – '629 Patent Contains Phase II Technology Not Within 1998 Patent Application)

151. Plaintiffs restate the above as if set out fully herein.

152. There is an actual controversy as to whether and to what extent the unlicensed 2001 Application Rewrite for the '629 patent filing and the final '629 Patent contain Phase-II Technology which was not contemplated by, or incorporated into, the 1998 Patent Application or the Controlling Access Settlement.

153. This exposure of trade secret and NDA protected information in the US6370629 patent filing constituted first-use inside the Patent Program and prevented Plaintiffs from filing their own patents on the same material.

154. In regard to this claim Plaintiffs request the Court enter a declaratory judgment based upon its construction of the claims of the 2001 Application Rewrite and the '629 Patent and using its comparison of them with those in the 1998 Patent Application to delineate with specificity the components of the claims of the 2001 Application Rewrite and the '629 Patent which read on Phase II Technology and are not contained in the 1998 Patent Application.

155. The purpose of this is to determine whether there is any relevant part of the original patent as a part of '629 or whether it is all content pertaining to the Phase-II IP designs and as such the entire patent is Plaintiff's property based on a allegation of a discovered fraud in the original filing wherein "there isn't any of the IP in the final patent which the Defendants assured Plaintiff's they were contributing to the US6370629 filing", something that would eliminate any of the underlying reasons for the original assignment to Hastings and his company DDI in the beginning of this matter.

156. If it is determined that there is none of the underlying Intellectual Properties from the '992 Patent inside of '629, then the Court is asked to order the immediate 'voiding' of both the Assignment for Management Agreement and the Settlement Agreement therein.

COUNT SIX
(Tortuous Interference With Prospective Economic Advantage - Sherman Act/Antitrust)

157. Plaintiffs restate the above as if set out fully herein.

158. Plaintiffs are the sole owners of Phase-II Technology with the limited exceptions of Microsemi's license rights as delineated in the Controlling Access Settlement.

159. Defendants have a formal responsibility to protect the IP described in the Settlements it controls for all parties. That specifically includes making sure the patents are viable and unauthorized users are not using the IP or authorizing Copyrightable Standards or Code implementing these standardized functions which will infringe on Plaintiffs rights.

160. As such Count Six involves Defendant IETF, the Internet Engineering Task Force and its parent organization the Internet Society (ISOC) for their use of PHASE-II protected IP in many of their standards and now inside of the core drivers which make up the foundation of the World's Internet.

161. Microsemi's through its incarnations over the last decade and their direct and indirect actions in its working with the Defendant IETF are a key part of their tortuous interference.

162. In its interfering with Plaintiffs rights, Microsemi refused to confirm the US 6370629 controlled third-party enforcement rights to Defendant IETF which Plaintiff's enjoyed per the settlement and in doing so (actively participating in the standards process) they defrauded Plaintiff's by placing an IETF controlled copyright onto Plaintiffs Intellectual Property as part of the standards practice by allowing IETF to use Plaintiffs IP in the systems the standards are and were drafted on.

163. As to how these are Sherman Act violations, these actions with the IETF constituted market division or allocation schemes to prevent Plaintiffs from being able to

enforce their rights herein and to enforce a global monopoly against the enforcement of US6370629 in all nations.

164. In addition to its performing this process, the IETF operates its entire existence across a number of computers in a distributed network; In its doing this the IETF has used the infringing IP products themselves inside its very operations in all of its publications; additionally it has included instructions which force a third-party implementing compliance with their design-set to infringe as well meaning anyone implementing the standard as a product would infringe as well as their customers;

165. Historically this was done by IETF with its partner Microsemi and US Government in numerous of its standards despite continuous objection from Glassey over its unauthorized use and the fact the Standards Org as a Consensus based standards organization isn't doing research and cannot claim its doing anything other than IP development for commercial users, and as such has no research exemption.

166. Finally a question arises as to the "the Use of Copyright ss107 exemptions to cover-up patent infringements by 'the party proselytizing the intentional infringement' by forcing its use in their very work product the Internet Protocol 'standards documents'"; and

167. As the second half of this same question, the allegation is that the IETF itself is not a transparent standards process at all and is not comparable or have any real oversight like ANSI or the IEEE and that as such it has become more of the Wild West Show the JEDEC standards committee was found in the US Courts to be in the RAMBUS Matters.

IETF Copyright ss107 Status and MGM v Grokster Standings

168. Additionally as part of Count Six the Court is asked to rule formally on whether the IETF itself is a Research Organization under the Copyright 107 exemption. The purpose of this is to make a determination as to whether the IETF's actions constitute something farther than copyright frauds under *MGM v Grokster*. The Supreme Court ruling in *MGM Studios Inc v Grokster Ltd* set a standard for any party (in this case the IETF a global standards agency operated as a ***benevolent fraternal org*** under the Tax Exempt Umbrella of the Internet Society Corporate Standing we assert "to cover up its real purpose, to allow Silicon Valley companies and others to manipulate global IP standards in their desire to end all patent support in any technology venue".

169. As such they (the IETF) are identical to GROKSTER as an agency distributing IP controlled products under an external agreement and their actions fully controlled by the Supreme Court ruling therein. (see *MGM Studios, Inc. v. Grokster, Ltd.*, 545 U.S. 913 (2005)⁴).

170. The argument being that the IETF is identical to a P2P sharing service and so is the Grokster-Role party in this matter and as such cannot even if they are a research institution (which is highly doubtful since they maintain the Internet Research Task Force (www.irtf.org), a separate org controlled under a separate set of rules and practices) still qualify as a 107-enabled entity as a University could.

171. As such the IETF publication of our their standards which contain our Patent-protected Technologies constitutes a both a direct infringement in the publication as well as an additional Copyright Infringement on the natural copyright

⁴ 545 U.S. 913 (*more*) see also 125 S. Ct. 2764; 162 L. Ed. 2d 781; 2005 U.S. LEXIS 5212; 75 U.S.P.Q.2D (BNA) 1001; 33 Media L. Rep. 1865; 18 Fla. L. Weekly Fed. S 547

issued when the US Government issued the US patent controlling this material. That second claim is tied to the actual copyright and the IETF's failure to enforce any of its Intellectual Property process ruled contained in BCP79, its IP Standards Document;

172. The principal claim is the IETF in refusing to enforce its own rules and practices and in not being a research institute or academic practice, and finally under its blanket use of the infringing technology in its own infrastructure creates a natural-trifecta of claims which exist under a number of standards from the Sherman Act to theft of Trade Secrets and in the intentional damage to the IP in the abandonment's of the patents filed in the EU, South Africa, Japan, Brazil, and Canada all support this fully, that under Patent and US IP and Trade Secret Law, no extension of the **research exemption under the copyright provision** exists for the IETF, and further Copyright Exemptions cannot authorized the setting aside of US Patent Law under Title 35 so the IETF creating a written work about a technology cannot "in and of itself carry any right to implement, use or do anything else with that Patent Protected IP, only Patent Licensing satisfies that.

COUNT SEVEN

(Declaratory Judgment – Patent Fraud, Unauthorized Filing of US6393126)

173. Plaintiffs restate the above as if set out fully herein.

174. Plaintiffs are the sole owners of Trusted Timing Infrastructure (TTI) System Technology with the limited provisions of the three derivatives licensed to Microsemi against three of the thirty-two components of the TTI itself.

175. Further that these are licensed for US use only in the Settlement Agreement since sections 8.1 and 8.3 restrict any and all disputes with the products or

their use by any and all third parties including end users to the Courts and Laws of the State of California.

176. Microsemi as predecessor Datum filed a patent against "the entire Trusted Timing Infrastructure IP library" listing Erik Van Der Kaay (US6393126) as the inventor with several of his engineers including those directly involved in the alleged "standards agency frauds" outlined previously in COUNT SIX.

177. The Patent (US6393126) was issued in the US and in a number of other countries and contains a number of controls and claims which overlap those which the US6370629 patent was filed to protect, so the foreign instances of 6393126 control many aspects that the Plaintiffs' rights under US6370629 which were filed in those same nations were intended to. As such the promulgation of 6393126 into foreign filings is an alleged fraud done to control key aspects of what the US6370629 is supposed to.

178. Nothing in the Trusted Timing Infrastructure settlement contemplated Microsemi filing a patent listing itself as the creator of the technology, something blatantly false based on the settlement agreement alone. This claim is further fully supported by the Toby Gellman appellate ruling.

179. The amount of the TTI which the patent was issued against like the 2001 changes to '629 included large amounts of Glassey owned IP from the CertifiedTime Inc Bankruptcy (01-54207-MM - San Jose). Additionally aspects and IP controlled by '629 was added to the '3126 patent without authorization to get it issued as well.

180. We therefore seek an order to the USPTO to remove Erik Van Der Kaay's name from this patent as well as the others and to replace them with Plaintiff Glassey exclusively. Likewise there is no assignment of this patent to Microsemi corporation

planned for or authorized in the settlement so we ask the Court to order the Patent Office to reassign this patent with full rights therein to Plaintiffs;

COUNT EIGHT

(Declaratory Judgment –International transfer of TTI Intellectual Properties to set aside the Settlement Agreement, Unauthorized removal of TTI from US Courts' Jurisdiction)

181. Plaintiffs restate the above as if set out fully herein.

182. Plaintiffs are the sole owners of Trusted Timing System Technology with the limited provisions of the three components licensed for US use only in the Settlement Agreement.

183. Settlement Terms are permanent per section 3.15 and 8.4 of the DDI Settlement contract and require continuous reporting on licensing, and further per sections 8.1 that "any and all disputes for any and all users of the IP sublicensed in the settlement do so in the courts and under the laws of the State of California" and that per section 8.3 these terms are binding on all successors in any form (including but not limited to end-users of the product and any intermediary distribution framework set up to support them).

184. Microsemi corp. at some point entered into a Joint Venture with a Cambridge England company called nCipher based on an introduction Plaintiff Glassey had made several years previous.

Microsemi transferred the protected IP of the TTI settlement to nCipher who took it to England and then brought the product back into the US as an English Copyright and Patent based Product under their name. This violated the terms of the settlement agreement.

COUNT NINE

(Declaratory Judgment –Mandatory Acceptance Requirements for transfer of US6370629 to Microsemi)

185. Plaintiffs restate the above as if set out fully herein.

186. Per section 8.4 each party assuming a control role for the licensing must notify the Plaintiffs of this within the 14 day period agreed to between Microsemi Attorney John Cannon and Plaintiffs as documented in the Cannon South African Patent Instance filing release letter.

187. Plaintiffs request the court issue a declaratory judgment that Microsemi breached this key term and strip Microsemi of the US6370629 patent awarding it in full to Plaintiffs and damages therein as the court sees fit including fraud losses therein.

COUNT TEN

(Declaratory Judgment –Defendant US Government's use of FISA and National Security Letters to cover up other actions and alleged frauds)

Governments Alleged Use of a National Security Letter in this matter

188. Plaintiffs assert that this matter clearly has National Security implications because this single set of IP rights controls all systems inside the Government as well all commerce in the US today; and based on various refusals from the US DoJ and the giving of a Judges position to Defendant PETER CHEN the specific attorney inside the Lathem Watkins law firm we believe created the delaying tactic and withholding-the-settlement agreement from everyone, the Plaintiffs believe that the President of the United States (POTUS) or some party working for the President issued a National Security Letter (NSL) to the FISA Court and "that a warrant classifying this fraud loss and the actions of both the Government Employees and those of the Industry Players

herein" was issued in this matter to prevent Glassey and McNeil from getting proper legal help in advancing these fraud claims, and as such this becomes a key civil rights matter therein. That said letter may have even been served on California Judiciary including the Judge in California who dismissed the review of the original contracts and alleged frauds therein while continuing to operate the courts infrastructure on infringing technology as well.

189. This claim is substantiated by every attorney hired by Glassey to prosecute this matter "refusing to answer the question 'as to whether they were contacted by anyone in their State Bar, State Government, US Government or in particular the FISA court in this matter'".

190. As such we request the USDC and this Court immediately reach out to the FISA court and request formal verification of this matter and if said order exists issue a further order "vacating any rulings in this matter by any other court".

191. That the USDC also order the termination of that National Security Letter if it does exist;

192. The justification for this is that an Action denying Bill of Rights protections against Court Access and Property Protection violates all of the FISA Court Members Oath of Office as Judges of the US District Court and that an action on the part of the FISA Court itself constituted both interference with a private citizens Seventh ***Amendment access to competent legal services and the courts therein***, and through that ***a manipulation of the that citizens fifth amendment rights codified in the Settlement or Co-inventor Agreements both***.

193. Further this final claim includes Named DOES named as USG (US Government) and its former officers including Leon Panetta as an individual today, the

following US Government agencies: National Security Council and the President of the United State as an individual and in their respective roles in the US Government.

Summary and Additional Prayer for Relief not included in Counts

WHEREFORE, Plaintiffs Michael E. McNeil and Todd S. Glassey request this Court to enter judgment in their favor on all counts, especially count ten (10), and to award the Plaintiffs damages as requested in specific Counts and cumulative damages in an amount to be determined at trial against "the use of the unauthorized and patent-protected IP rights by IETF and all of its third-party Users as was done with MGM Studios v Grokster herein including in all computing and network infrastructure components (including but not limited to switches, routers, servers, and client platforms including cellular and mobile computing (aka wireless/cellular) systems)" in use globally through the entire effective period of all patents cumulatively including those abandoned today.

Additionally as part of this to

1. award Plaintiffs specific declaratory relief to the effect that the 2001 Application Rewrite and the '629 Patent contain Phase-II Technology which was not identified in the 1998 Patent Application,
2. award them relief in regard to their US3693126 damage claims, and
3. award the Plaintiffs damages against the US Government (POTUS, NSA, National Security Council, DoJ, et Al.) for their alleged use of a NSL and FISA warrant issued to GLASSEY Counsel's (from Hopkins Carley and Berliner Cohen to Mahaney/Ertl) for the effect of this 'classifying the fraud complaint under the FISA and National Security Act (as well as other

legislation) ***to reduce or eliminate the effectiveness of Plaintiff's Counsel in the matter herein;***

4. award Plaintiffs

- a. against the IETF and its parent the Internet Society uses in operating the computers they publish virtually everything on and through, as well as the key companies profiting from this as a class including but not limited to Cisco, Google, Apple, Ebay, Paypal, Oracle Microsoft, and
- b. additionally under current US Public Policy to issue formal Court Order to the IETF and Internet Society "that all of their standards must come into immediate conformance with US DMCA provisions and best practices of a Global Standards Org with regard to its IP Management Practices" - meaning there must be a DMCA compliant use and take down policy implemented in all existing IETF standards; and
- c. finally that this court order that the IETF Copyright of all preceding documents is void by this alleged fraud and that by order of the court "no matter what contractual agreement exists between the authors and the IETF as to that IP's licensing", and to award Plaintiffs any award to plaintiffs direct losses, treble damages as authorized by the numerous fraud statutes this suit alleges were violated and any other relief to which the Plaintiffs are entitled, including but not limited to legal fees herein.

d. Based also on the Equal Protection Clause of the Fourteenth Amendment and other aspects of the Fifth and Fourteenth Amendments the denial of both the US Government and the State of California has placed both entities in a position where they have not only violated the Fifth Amendment by allowing the conversion of the disputed properties, but in doing so they also under the fourth Amendment functionally seized property⁵ by claiming this Intellectual Property Right against US and Foreign Patents did not exist, in doing so they have blocked access to the courts therein under the Seventh and Fourteenth Amendments to the US Constitution.

⁵ Boyd v. United States, 116 U.S. 616 (1886)

Respectfully submitted,

 Aug 20 2014
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 8/20/2014
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Jury Demand

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury of all issues so triable.

 Aug 20 2014
Plaintiffs

 8/20/2014
Plaintiffs

EXHIBIT 8

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Release ("Agreement") is entered into by and between DATUM, INC. ("DATUM") and DIGITAL DELIVERY INC. ("DDI"), on the one hand, and GLASSEY-MCNEIL TECHNOLOGIES ("GMT"), TODD GLASSEY ("GLASSEY") and MICHAEL E. MCNEIL ("MCNEIL") (collectively referred to as "GMT/GLASSEY/ MCNEIL"), on the other hand.

SECTION ONE

BACKGROUND

1.1 GLASSEY and MCNEIL and DDI entered into a Co-Inventor Agreement, dated October 26, 1998 (the "Co-Inventor Agreement"), pursuant to which those parties agreed, on an interim basis, to certain rights and interests in intellectual property and to certain future payment obligations of DDI, pending the execution of a definitive agreement with respect to such intellectual property.

1.2 On or about July 29, 1999, DATUM consummated a merger whereby DDI became a wholly owned subsidiary of DATUM.

1.3 On or about August 20, 1999, DATUM filed a complaint (the "COMPLAINT") stating claims against GMT/GLASSEY/MCNEIL for, among other things, Breach of Contract, Breach of the Covenant of Good Faith and Fair Dealing, Misappropriation of Trade Secrets and Proprietary Business Information, Trade Libel, Slander and Declaratory Relief.

1.4 DATUM, DDI and GMT/GLASSEY/MCNEIL desire to definitively resolve and terminate the interim arrangements arising from the Co-Inventor Agreement, to avoid the risks and expenses attendant upon litigation and to reach a mutual, full and final compromise and settlement of the parties' matters, claims, causes of action and the like with respect the Co-Inventor Agreement, the Assembly, Distribution and Use of Digital Information Patent, the Controlling Access Patent and the Phase II Technology (as defined below).

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1.5 This Settlement Agreement is a mutual and complete compromise between the parties and is intended as a complete and final resolution and settlement of the respective differences, positions and claims of DDI, DATUM and GMT/GLASSEY/MCNEIL, with respect to the Co-Inventor Agreement, the Assembly, Distribution and Use of Digital Information Patent, the Controlling Access Patent and the Phase II Technology.

SECTION TWO

DEFINITIONS

2.1 The Assembly, Distribution and Use of Digital Information Patent: U.S. Patent No. 5,646,992 issued to DDI on July 8, 1997 for certain data and file protection and encryption technology. One of the products produced under this patent is called the Confidential Courier, which is described as an electronic transmittal envelope which can be opened only by specifically designated persons having the encoded passwords.

2.2 Controlling Access Patent: A US and certain foreign countries patent pending covering the expansion of technology covered by the Assembly, Distribution and Use of Digital Information Patent to include the new technology of geo-positioning and time/data encryption with respect to digital data and file assembly, distribution, use and access.

2.3 Phase II Technology - Phase II Technology refers to the method of authentication, encryption and transmission of date/time and/or location data for the purpose of linking together two or more disparate electronic components, such that a trust model is established between them. Such physical elements must individually be capable of computational and cryptographic functionality, but computationally may be isolated from one another. Such electronic components must be physically secure, and communicate with each other over communications channel(s) which may themselves be insecure.

SECTION THREE
TERMS OF SETTLEMENT

3.1 In consideration of the mutual covenants set forth herein, and in full settlement of the claims and causes of action asserted or held by DDI and/or GMT/GLASSEY/MCNEIL under the Co-Inventor Agreement, the parties agree as follows:

3.2 Assignment of Controlling Access Patent: GMT/GLASSEY/MCNEIL assign all rights, title and interest in the Controlling Access Patent and the application therefor, to DATUM.

3.3 Ownership of and License to Use Phase II Technology: DDI and DATUM acknowledges that GMT/GLASSEY/MCNEIL owns all rights, title and interest in the Phase II Technology, but GMT/GLASSEY/MCNEIL hereby grants DATUM a perpetual, non-exclusive, irrevocable, assignable, sub-licensable, worldwide license for use of the Phase II Technology and derivatives thereof, with rights to sublicense, in connection with the Confidential Courier product and other products and technology covered by the Controlling Access Patent.

3.4 Payment: DATUM will pay to GMT/GLASSEY/MCNEIL \$300,000 upon full execution of this Agreement. Payment shall be wired within 24 hours of execution as follows:

Bank Routing No. 121139096

Bank Account No. 01-49350-5

Bank Name: Coast Commercial Bank

Bank Address: 720 Front Street
Santa Cruz, California 95060

3.5 Dismissal of Complaint: DATUM agrees to dismiss with prejudice the COMPLAINT within ten (10) days of the full execution of this Agreement

3.6 Acknowledgment of Rights Under the Assembly, Distribution and Use of Digital Information Patent GMT/GLASSEY/MCNEIL disclaim and waive any rights to the Assembly,

Distribution and Use of Digital Information Patent and the technology described therein and agree not to make, use or sell any products developed using or derived from the Phase II Technology which also include the technology described in or covered by the Assembly, Distribution and Use of Digital Information Patent. GMT/GLASSEY/MCNEIL explicitly acknowledge that they had no participation in the invention or patent application process which resulted in the U.S. Patent No. 5,646,992 issued to DDI on July 8, 1997.

3.7 Co-Inventor Agreement Terminated. In addition and without duplication, upon the execution of this Agreement and payment of the amount specified in paragraph 3.4, above the Co-Inventor Agreement shall be terminated, and this Agreement shall be the only agreement of the parties with respect to the subject matter of the Co-Inventor Agreement and this Agreement. Such subject matter includes without limitation the future payment obligations and division of intellectual property rights set forth in the Co-Inventor Agreement. The parties hereto acknowledge and agree that the settlement payment constitutes the satisfaction in full of any claims by GMT/GLASSEY/MCNEIL for compensation of any kind pursuant to the Co-Inventor Agreement.

3.8 Availability of Injunctive Relief: GMT/GLASSEY/MCNEIL acknowledge and agree that the covenants of GMT/GLASSEY/MCNEIL and the restrictions on GMT/GLASSEY/MCNEIL contained in this Agreement are reasonable and necessary in order to protect the legitimate interests of DATUM, and that any violation thereof by GMT/GLASSEY/MCNEIL or any affiliates would result in irreparable injuries to DATUM, for which damages would not, in and of themselves, be an adequate remedy. Therefore, GMT/GLASSEY/MCNEIL acknowledge and agree that, in the event of a violation or breach by GMT/GLASSEY/MCNEIL or any affiliates of any of the covenants or any of the restrictions contained in this Agreement, DATUM shall be entitled to obtain, from any court of competent jurisdiction, temporary, preliminary and permanent injunctive relief, in addition to any other rights or remedies to which DATUM may be entitled under applicable law or equitable principles, without the necessity on the part of DATUM of having to post a bond or other security and without thereby limiting any other rights and remedies, including the recovery of monetary damages, that DATUM may have hereunder or under applicable law by reason of such violation or breach.

3.9 Release of Claims:

3.9.1 GMT/GLASSEY/MCNEIL's Release of Claims Against DATUM and DDI
 GMT, GLASSEY and MCNEIL, for themselves and for themselves and for and on behalf of GMT and any affiliates, related entities, assigns and successors in interest, if any, now or in the future, hereby irrevocably release, forgive and discharge DATUM and DDI and all of their officers, directors, shareholders, partners, agents, employees, representatives, affiliates, parent, subsidiaries, and related entities, assigns and successors in interest, if any, now or in the future (collectively, the "Datum Parties"), from any and all obligations, responsibilities and liabilities relating to or arising out of the Co-Inventor Agreement against the Datum Parties. Notwithstanding the foregoing, DATUM's obligations under this Agreement are expressly excepted from the foregoing release.

3.9.2 DATUM's and DDI's Release of Claims Against GMT/GLASSEY/MCNEIL: DATUM and DDI agree and acknowledge for themselves and for themselves and for and on behalf of DATUM and any affiliates, related entities, assigns and successors in interest, if any, now or in the future, that GMT/GLASSEY/MCNEIL are released and fully discharged from any and all obligations, responsibilities and liabilities to DATUM or DDI relating to or arising out of the Co-Inventor Agreement. Notwithstanding the foregoing, GMT/GLASSEY/MCNEIL's obligations under this Agreement are expressly excepted from the foregoing release.

3.9 Civil Code Section 1542: With respect to the matters herein stated as the subject of release, the parties hereto do hereby mutually waive and relinquish any and all rights which any of them may have under the provisions of Section 1542 of the Civil Code of the State of California, which Section reads as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

3.10 Attorney's Fees: DATUM, DDI and GMT/GLASSEY/MCNEIL shall bear their own costs and attorneys' fees in connection with their respective disputes and claims settled herein.

SECTION FOUR
WARRANTIES AND REPRESENTATIONS

4.1 The parties hereto warrant and represent that no promise or inducement has been offered or made for this Agreement except as herein set forth, that this Agreement is executed without reliance on any statements or any representations not contained herein, and that this Agreement reflects the entire settlement among the parties. The attorneys of record warrant and represent that they are satisfied that their respective clients fully understand the effect, significance and consequence of this Agreement. The terms, acknowledgments, warranties and representations made herein shall survive the execution and delivery of this Agreement, and shall be binding upon the respective heirs, representatives, and assigns and successors of each of the parties and their attorneys.

SECTION FIVE
NO ADMISSION OF LIABILITY

5.1 The parties hereto acknowledge and agree that this Agreement is entered into as a mutual compromise and settlement which is not in any respect or for any purpose to be deemed or construed as an admission or concession of any liability whatsoever on the part of any of the parties hereto.

SECTION SIX
CONFIDENTIALITY

6.1 The parties agree that this Agreement and its terms are confidential. The parties further agree that the confidentiality of this Agreement and its terms is a material term of this Agreement without which the parties would not have consented to the Agreement. The parties expressly agree that they will not disclose or discuss the terms of this Agreement with any person. GMT/GLASSEY/MCNEIL shall notify DATUM's legal counsel, in writing, of the receipt of any request for the disclosure of any confidential information. GMT/GLASSEY/MCNEIL shall cooperate with the efforts of DATUM to quash such subpoena or other legal process or to obtain a protective order, as DATUM deems appropriate. The parties shall have the right to provide required information concerning this Agreement to investors and potential investors, and to Affiliates in order to enable them to carry out the activities contemplated hereunder and in connection with strategic business needs. Any such disclosure shall be pursuant to a separate agreement of confidentiality between DATUM or GMT/GLASSEY/MCNEIL and any such third parties.

6.2 The parties further agree to maintain the confidentiality of any document or information which has been or is designated as confidential.

SECTION SEVEN
ENFORCEMENT OF AGREEMENT

7.1 If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation arising out of or relating to any of the provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

SECTION EIGHT
MISCELLANEOUS

8.1 This Agreement is subject to, governed by, and shall be construed in accordance with the laws of the State of California.

8.2 GMT/ GLASSEY/MCNEIL represent and warrant that they are the sole and rightful owners of the claims asserted in the dispute described in this Agreement and that any such claims have not been assigned or transferred to any unnamed party. DATUM and DDI represent and warrant that DATUM is the sole and rightful owner of the claims asserted in the COMPLAINT and otherwise herein and that any such claims have not been assigned or transferred to any unnamed party.

8.3 This Agreement is enforceable and binding upon the parties hereto, their successors and assigns, and any agents or others under the control or direction of the parties. Moreover, both parties, as well as the signatories, hereby warrant and covenant that their respective representative signing this Agreement has full authority to bind the parties to the terms of this Agreement.

8.4 The parties may assign all rights and delegate all duties hereunder to an entity acquiring that portion of each parties' business to which this Agreement relates, or to any corporate successor by way of merger or consolidation, provided that the assignee delivers to DATUM or GMT/GLASSEY/MCNEIL, as appropriate, a statement that the assignee assumes the assigning party's obligations hereunder.

8.5 This Agreement constitutes and contains the entire understanding and agreement of the parties and cancels and supersedes any and all prior negotiations, correspondence and understandings and agreements, whether verbal or written, between the parties respecting the subject matter hereof. No waiver, modification or amendment of any provision of this Agreement shall be valid or effective unless made in writing and signed by a duly authorized officer of each of the parties.

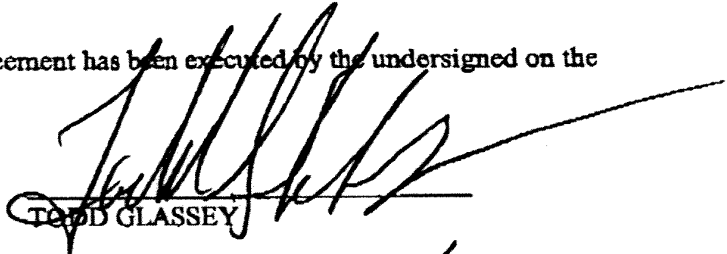
8.6 The provisions of this Agreement are severable, and if one or more provisions should be determined to be judicially unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable. The provisions of this Agreement shall be construed as separate provisions covering their subject matter in each of the separate counties and states in the United States in which DATUM transacts its business; to the extent that any provision shall be judicially unenforceable in any one or more of those counties or states, that provision shall not be affected with respect to each other county or state, each provision with respect to each county and state being construed as severable and independent.

8.7 The parties agree to take any acts, and execute any further documents, that may be reasonably necessary to accomplish and effect the terms of this Agreement.

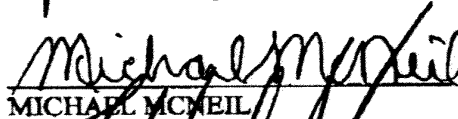
8.8 This Agreement may be executed in counterparts and by fax, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement has been executed by the undersigned on the dates below indicated.

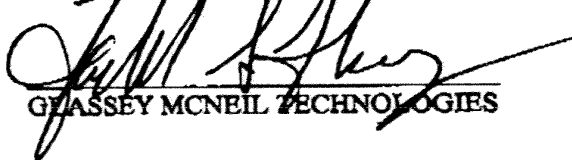
Dated: November 19, 1999


TODD GLASSEY

Dated: November 19, 1999


MICHAEL MCNEIL

Dated: November 19, 1999


GLASSEY MCNEIL TECHNOLOGIES

Dated: November __, 1999

DATUM, INC.

Dated: November __, 1999

DIGITAL DELIVERY, INC.

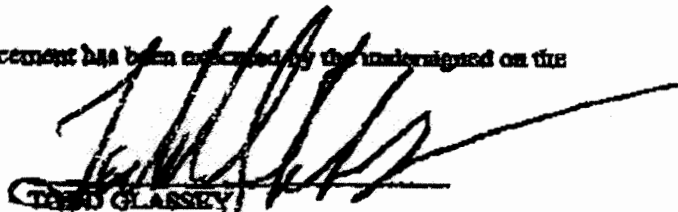
8.6 The provisions of this Agreement are severable, and if one or more provisions should be determined to be judicially unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable. The provisions of this Agreement shall be construed as separate provisions covering their subject matter in each of the separate counties and states in the United States in which DATUM transacts its business; to the extent that any provision shall be judicially unenforceable in any one or more of those counties or states, that provision shall not be affected with respect to each other county or state, each provision with respect to each county and state being construed as severable and independent.

8.7 The parties agree to take any acts, and execute any further documents, that may be reasonably necessary to accomplish and effect the terms of this Agreement.

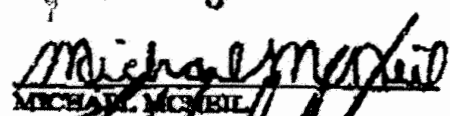
8.8 This Agreement may be executed in counterparts and by fax, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement has been executed by the undersigned on the dates below indicated.

Dated: November 16, 1999


TERRY GLASSEY

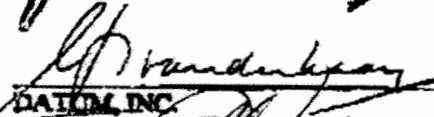
Dated: November 19, 1999


MICHAEL MCNEIL

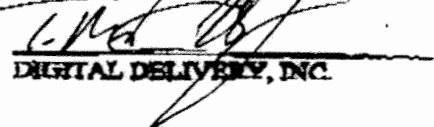
Dated: November 19, 1999


GLASSEY MCNEIL TECHNOLOGIES

Dated: November 29, 1999


DATUM, INC.

Dated: November 29, 1999


DIGITAL DELIVERY, INC.

APPROVED AS TO FORM AND CONTENT:

STRADLING, YOCCA, CARLSON & RAUTH

Dated: November __, 1999 By:


John F. Cannon

Attorneys for DATUM, Inc. and Digital Delivery Inc.

BOSSO, WILLIAMS SACHS, BOOK, ATACK &
GALLAGHER

Dated: November 19, 1999 By:


Jason R. Book, Esq.

Attorneys for Glassey-McNeil Technologies, Inc.
Todd Glassey, and Michael McNeil.

EXHIBIT 9

7

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Release ("Agreement") is entered into by and between DATUM, INC. ("DATUM"), on the one hand, and GLASSEY-MCNEIL TECHNOLOGIES ("GMT"), TODD GLASSEY ("GLASSEY"), and MICHAEL MCNEIL ("MCNEIL"), (sometimes collectively referred to as "GMT/GLASSEY/MCNEIL"), on the other hand.

SECTION ONE

BACKGROUND

1.1 This Agreement is a mutual and complete compromise between the parties and is intended as a complete and final resolution and settlement of the respective differences, positions and claims of DATUM and GMT/GLASSEY/MCNEIL, as described below.

1.2 All parties hereto desire to avoid the risks and expenses attendant upon further litigation and to reach a mutual, full and final compromise and settlement of the parties' disputes, claims, causes of action and the like.

1.3 In or about February 1998 the parties began collaborating on the development of certain technologies related to electronic commerce and time verification, which included the development of certain intellectual property, technologies, trade secrets and confidential and proprietary information. The parties also collaborated on the development of marketing efforts related to electronic commerce and time verification. The parties' collaborative efforts continued through the end of 1998/early 1999.

1.4 From the parties' business relationship a dispute arose between DATUM and GMT/GLASSEY/MCNEIL. Among other things, the parties dispute ownership in and other rights to certain of the intellectual property, technologies, trade secrets and confidential and proprietary information developed or contributed during the parties relationship, including the Protected Technology, defined below. When the parties were unable to resolve the dispute informally, on or around August 20, 1999, DATUM filed a complaint (the "COMPLAINT") stating claims for, among other things, Breach of Contract, Breach of the Covenant of Good Faith and Fair Dealing,

Misappropriation of Trade Secrets and Proprietary Business Information, Trade Libel, Slander and Declaratory Relief.

SECTION TWO

DEFINITIONS

2.1 Protected Technology: Protected Technology includes any information, data, method, product, software, hardware, trade secrets, copyrights, documents, e-mails, technology, ideas, or inventions, disclosed, provided, produced, created in any form by GMT/GLASSEY/MCNEIL to, for, or in conjunction with DATUM between the initiation of the parties' relationship on February 1, 1998 through March 1, 1999, including any derivatives thereof, and any information, data, method, product, software, hardware, trade secrets, copyrights, documents, e-mails, technology, ideas, or inventions, disclosed, provided, produced, created in any form by DATUM to which GMT/GLASSEY/MCNEIL had, or was provided access to, or gained knowledge of or worked on between February 1, 1998 through March 1, 1999, including all derivatives thereof, including the Trusted Time Infrastructure ("TTI"), TTI II, or any further derivative or variation thereof, including but not limited to the Trusted Local Clocks and Trusted Master Clocks defined below.

2.2 Trusted Local Clocks: The Trusted Local Clock ("TLC") is a particular implementation of a trusted clock that is periodically certified to an upper clock, typically a Trusted Master Clock (TMC). The TLC provides time stamp tokens and temporal tokens. The TLC is a PCIv2.1 compliant card and assumed to be operating in an insecure host in an insecure environment. It uses a real time operating system to control the on-card functions.

2.3 Trusted Master Clocks: The Trusted Master Clock ("TMC") is a particular implementation of a trusted clock, synchronized to Coordinated Universal Time and made comparable to the time offered by a National Time Standard such as the National Institute of Science and Technology, which generates trusted time data which is sent to TLCs for time stamping and other certification purposes. The TMC also monitors and calibrates the TLCs.

2.4 Trusted Time Infrastructure: The term Trusted Time Infrastructure ("TTI") describes

a particular system and process developed by Datum by which time can be affixed to an e-commerce document or transaction, or any other electronically transmitted information, in such a way that it can be free from outside alteration, thus providing a universal, secure and reliable way to ascertain when a transaction occurred or a document was received or sent.

2.5 Net Sales: Net Sales shall mean the amount invoiced for sales of Trusted Local Clocks and Trusted Master Clocks (collectively the "Licensed Products") by DATUM less the following deductions (to the extent they are not already reflected in the amount billed):

- (i) Discounts, refunds, and wholesaler chargebacks allowed and taken in amounts customary in the trade;
- (ii) Import, export, excise, sales or use taxes, tariffs and duties directly imposed and with reference to particular sales;
- (iii) Outbound transportation prepaid or allowed, including insurance.
- (iv) Amounts allowed or credited on rebates, returns or retroactive price deductions.

Licensed Products shall be considered "sold" when the amount billed out or invoiced to a third party has been received by DATUM. Licensed Products shall not be sold for less than commercially reasonable amounts, provided however, DATUM may provide Licensed Products as samples and promotional items in the normal course of business for no charge or reduced charge. If a Licensed Product is incorporated into another product or is sold in combination with other products or services and not invoiced separately, such Licensed Products shall be included in the Net Sales at the then current list price for such quantities of such Licensed Products with any discount from list price being applied proportionately to the discount from list price of the product into which the Licensed Product was incorporated or the list price of the other product sold, as the case may be. If there is then no current list price for such Licensed Product, the Net Sales will be based on the separate value of such Licensed Product and such other products or services.

SECTION THREE
TERMS OF SETTLEMENT

3.1 In consideration of the mutual covenants set forth herein, and in full settlement of the claims and causes of action asserted or held by DATUM and/or GMT/GLASSEY/MCNEIL, the parties agree as follows:

3.2 Royalty:

(a) DATUM agrees to pay to GMT/GLASSEY/MCNEIL a three percent (3%) royalty upon the Net Sales by DATUM of any DATUM Trusted Local Clocks and Trusted Master Clocks. The royalty shall be calculated based upon final sales as of the end of the calendar year in which a royalty may be calculated. The royalty shall be due within sixty (60) days of the end of each year the royalty is due.

(b) The duration of the royalty shall be three (3) years (years 2000, 2001 and 2002).

(c) The royalty shall be subject to a ceiling of \$150,000 per year. Under no circumstances shall DATUM be obligated to pay more than \$150,000 in royalties in any calendar year irrespective of the amount of its Net Sales in any calendar year. GMT/GLASSEY/MCNEIL has no rights to any payment other than the 3% royalty and subject to the ceiling of \$150,000.

(d) DATUM agrees to advance \$50,000 of its royalty payment at the commencement of each year for which a royalty may be paid. The first advance payment shall be made per the wiring instructions below on or before January 7, 2000. Thereafter, the advance shall be paid within the first thirty days of each calendar year per the instructions below. Each of the three (3) \$50,000 advances shall be nonrefundable and shall not be subject to whether DATUM generates sufficient sales to generate the royalty payments but shall be creditable against the royalty earned pursuant to this section. All other royalty payments are subject to DATUM achieving sales of the two (2) products subject of the royalty.

(e) The first advance payment, due on or before January 7, 2000, shall be made by wire transfer to the following account:

(Correct #)
Bank Acc. # —

01-49530-5

Name on Account —

Bosso Williams
attorney Trust
Account.

Bank Routing No. 121139096
Bank Account No. 01-49350-5
Bank Name: Coast Commercial Bank
Bank Address: 720 Front Street
Santa Cruz, California 95060

All further payments shall be by wire transfer to the following account:

Bank Routing No.: 121139096
Bank Account No.: 04-50823-8
Bank Account Name: Glassey-McNeil Technologies
Bank Name: Coast Commercial Bank
Bank Address: 203 Mount Harmon Road
Scotts Valley, CA 95066

(f) Unless notified in a writing signed by GMT, GLASSEY and MCNEIL, and their legal counsel, changing the payees and/or destination of payment, DATUM will follow these instructions for all payments and will not be subject to liability for following such instructions.

3.2.1 Currency of Payments. All payments under this Agreement shall be made U.S. Dollars by wire transfer to such bank account as designated herein. Any payments due hereunder on Net Sales outside of the United States shall be payable in U.S. Dollars at the average of the rate of exchange of the currency of the country in which the Net Sales are made as reported in the New York edition of The Wall Street Journal, for the last three (3) business days of the period for which the royalties are payable.

3.2.2 Tax Withholding. If laws or regulations require the withholding of income taxes owed on account of royalties accruing under this Agreement, such taxes shall be deducted on a country-by-country basis by DATUM from such remittable royalty and will be paid by it to the proper taxing authority. Proof of payment shall be secured and sent to GMT/GLASSEY/MCNEIL as evidence of such payment.

3.2.3 Audit Rights re Royalty Payments: To the extent

GMT/GLASSEY/MCNEIL in good faith dispute the amount of royalties to which they are entitled pursuant to this Agreement, GMT/GLASSEY/MCNEIL may request an inspection of DATUM's accounting records reflecting the calculation of Net Sales. Such request may be made once per year while Datum's royalty payment obligations continue under this Agreement. Unless such request is made within thirty (30) days of GMT/GLASSEY/MCNEIL's receipt of a royalty payment from DATUM, the right to audit that payment is waived. The inspection shall be made only by a Certified Public Accountant ("CPA"), subject to DATUM's approval, which will not unreasonably be withheld, and conditioned upon execution of a confidentiality agreement regarding the review of DATUM's records, which shall include, among other things, a provision which prohibits the disclosure by the CPA of any information disclosed, learned or reviewed during the audit to GMT/GLASSEY/MCNEIL except for the final calculation of the amount that the CPA contends DATUM owes under this Agreement. Unless otherwise mutually agreed to in writing, the inspection by the CPA shall take place at the law offices of Stradling, Yocca Carlson & Rauth in Newport Beach, California during normal business hours. No information inspected during the audit may be removed from the premises, other than that which is expressly permitted by this paragraph. For purposes of this audit, the CPA may review only the computer generated accounting records necessary to make a final calculation of royalties owed and shall not be given access to manufacturing documents, inventory records or any underlying invoices and records. GMT/GLASSEY/MCNEIL shall bear all its own costs and expenses incurred to conduct any audits. If the audit determines that an amount is owed by DATUM to GMT/GLASSEY/MCNEIL and that amount is within ten percent (10%) of the original amount paid by DATUM, GMT/GLASSEY/MCNEIL, or if the audit determines that no amount is owed, or if DATUM has overpaid, GMT/GLASSEY/DATUM shall also reimburse DATUM for all of DATUM's cost and expenses in handling any audit. DATUM shall have the right to offset any right to reimbursement under this provision from any future royalty payments.

3.3 Dismissal of Complaint: DATUM agrees to dismiss with prejudice the COMPLAINT within ten (10) days of the full execution of this Agreement.

3.4 Intellectual Property Rights Regarding the Protected Technology:

GMT/GLASSEY/MCNEIL disclaim any ownership in, or rights to, the Protected Technology and hereby acknowledge, represent and warrant that such Protected Technology is owned solely and exclusively by DATUM as its intellectual property, trade secrets and proprietary information. GMT/GLASSEY/MCNEIL agrees not to contest DATUM's ownership of any Protected Technology or the labeling of the Protected Technology as intellectual property, trade secrets, and/or proprietary information.

3.5 Other Agreements Superseded and Terminated: GMT/GLASSEY/MCNEIL further agree that, with the exception of this Agreement, which supersedes the terms of any prior agreements of the parties, all terms of all other agreements between the parties including, but not limited to any consulting agreements between the parties, any confidentiality or non-disclosure agreements, any value added reseller agreements and any other express, implied or oral agreements are hereby terminated and hereafter void. The parties mutually agree that as between DATUM and GMT/GLASSEY/MCNEIL no provision of any agreement between the parties, other than this Agreement and the settlement agreement relating to the parties' prior co-inventor agreement, shall be deemed to survive.

3.6 Protection of DATUM's Trade Secrets and Proprietary Information: From the execution date of this Agreement and at all times thereafter, GMT/GLASSEY/MCNEIL shall not, and shall not permit any representatives, agents, assigns or affiliates, to use or disclose to any person or entity any Protected Technology. GMT/GLASSEY/MCNEIL expressly agree, represent and acknowledge that they shall not engage in, or be associated with, any business which uses, in any manner, any Protected Technology.

3.7 Availability of Injunctive Relief: Given the nature of DATUM's business, GMT/GLASSEY/MCNEIL's involvement in DATUM's business and in the formulation and implementation of its business plans and strategies relating to the Protected Technology, and GMT/GLASSEY/MCNEIL's direct involvement with DATUM clients, GMT/GLASSEY/MCNEIL acknowledge and agree that the covenants of GMT/GLASSEY/MCNEIL and the restrictions on GMT/GLASSEY/MCNEIL contained in this Agreement are reasonable and necessary in order to protect the legitimate interests of DATUM, and that any violation thereof by

GMT/GLASSEY/MCNEIL or any affiliates would result in irreparable injuries to DATUM, for which damages would not, in and of themselves be an adequate remedy. Therefore, GMT/GLASSEY/MCNEIL acknowledge and agree that, in the event of a violation or breach by GMT/GLASSEY/MCNEIL or any affiliates of any of the covenants or any of the restrictions contained in this Agreement, DATUM shall be entitled to obtain, from any court of competent jurisdiction, temporary, preliminary and permanent injunctive relief, in addition to any other rights or remedies to which DATUM may be entitled under applicable law or equitable principles, without the necessity on the part of DATUM of having to post a bond or other security and without thereby limiting any other rights and remedies, including the recovery of monetary damages, that DATUM may have hereunder or under applicable law by reason of such violation or breach.

3.8 Representation of Non-disclosure: GMT/GLASSEY/MCNEIL represent and warrant that they have not disclosed any Protected Technology to any party other than Datum, its employees, agents, representatives.

3.9 Communication with Datum: GMT/GLASSEY/MCNEIL agree to refrain from any contact or communication with DATUM or any affiliated entities, including any officers, employees, former employees, agents, or representatives of DATUM or its affiliated entities. All communication on behalf of GMT/GLASSEY/MCNEIL which is directed at DATUM, its employees, agents or representatives must be directed to DATUM's legal counsel: John F. Cannon, Esq., Stradling, Yocca, Carlson & Rauth, 660 Newport Center Drive, Suite 1600, Newport Beach, California, 92660-6441. Further, all such communications must be made by legal counsel for GMT/GLASSEY/MCNEIL who is designated as follows: Jason Book, Esq., Bosso, Williams, Sachs, Book, Attack & Gallagher, 133 Mission Street, Suite 280, Santa Cruz, California 95061-1822.

3.10 No Communication Regarding Datum: GMT/GLASSEY/MCNEIL agree that they will not discuss any aspect of DATUM, including but not limited to DATUM's business, officers, employees, former employees, representatives, affiliated entities, transactions, or products with any person or entity, other than as expressly contemplated by this Agreement.

3.11 Release of Claims:

3.11.1 GMT/GLASSEY/MCNEIL's Release of Claims Against DATUM: GMT, GLASSEY and MCNEIL, for themselves and for and on behalf of GMT and any affiliated or related entities, assigns and successors in interest, if any, now or in the future, hereby irrevocably release, forgive and discharge DATUM and all of its current and former officers, directors, shareholders, partners, agents, employees, representatives, affiliates, parent, subsidiaries, and related entities, assigns and successors in interest, if any, now or in the future (collectively, the "DATUM Parties"), from any and all claims, demands, contracts, causes of action, obligations, debts, liabilities of any kind or nature whatsoever, whether known or unknown, which they now have or may have in the future, against the DATUM Parties. This release expressly includes any claims for which DATUM would bear an obligation of indemnity, pursuant to contract statute or otherwise to the person against whom GMT/GLASSEY/MCNEIL would have a claim. This release may be asserted by any of the Datum Parties and shall be a complete defense to any claim for which Datum would bear an indemnity obligation. Notwithstanding the foregoing, DATUM's obligations under this Agreement are expressly excepted from the foregoing release.

3.11.2 DATUM's Release of Claims Against GMT/GLASSEY/MCNEIL: DATUM agrees and acknowledges that DATUM on behalf of itself and any affiliated or related entities, assigns and successors in interest, if any, hereby irrevocably releases, forgives and discharges GMT/GLASSEY/MCNEIL and all of its officers, directors, shareholders, partners, agents, employees, representatives, affiliates, parents, subsidiaries, and related entities, assigns and successors in interest, if any, now or in the future (collectively, the "GMT Parties"), from any and all claims, demands, contracts, causes of action, obligations, debts, liabilities of any kind or nature whatsoever, whether known or unknown, which they now have or may have in the future, including those claims stated in the COMPLAINT, against the GMT Parties. This release expressly includes any claims for which GMT/GLASSEY/MCNEIL would bear an obligation of indemnity because such claim arose during and out of GMT/GLASSEY/MCNEIL's employment of the person against whom DATUM would have a claim. Notwithstanding the foregoing, GMT/GLASSEY/MCNEIL's obligations under this Agreement are expressly excepted from the foregoing release.

3.12 Civil Code Section 1542: With respect to the matters herein stated as the subject of release, the parties hereto do hereby mutually waive and relinquish any and all rights which any of

them may have under the provisions of Section 1542 of the Civil Code of the State of California, which Section reads as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

3.13 Settlement of Claims Against DATUM: GMT/GLASSEY/MCNEIL agree and acknowledge that, upon performance of this Agreement, DATUM shall have no further obligations under any consulting agreements, non-disclosure agreements, value added reseller agreements or any other agreement with GMT/GLASSEY/MCNEIL and that GMT/GLASSEY/MCNEIL waive any claims or causes of action any of them may have against DATUM arising out of such agreements, including, but not limited to, claims for damages and claims for the return of any intellectual properties allegedly disclosed to DATUM by GMT/GLASSEY/MCNEIL.

3.14 Attorney's Fees: DATUM and GMT/GLASSEY/MCNEIL shall bear their own costs and attorneys' fees in connection with their respective disputes and claims settled herein.

3.15 Termination of Payment Obligation and Survival of Non-Payment Terms: The parties agree and acknowledge that DATUM's royalty payment obligations terminate after the royalty payment derived from the third year of the royalty. Notwithstanding the foregoing, all other terms of this Agreement will remain in full force and effect after termination of DATUM's payment obligations.

SECTION FOUR

WARRANTIES AND REPRESENTATIONS

4.1 The parties hereto warrant and represent that no promise or inducement has been offered or made for this Agreement except as herein set forth, that this Agreement is executed without reliance on any statements or any representations not contained herein, and that this

Agreement reflects the entire settlement among the parties. The attorneys of record warrant and represent that they are satisfied that their respective clients fully understand the effect, significance and consequence of this Agreement. The terms, acknowledgments, warranties and representations made herein shall survive the execution and delivery of this Agreement, and shall be binding upon the respective heirs, representatives, and assigns and successors of each of the parties and their attorneys.

SECTION FIVE

NO ADMISSION OF LIABILITY

5.1 The parties hereto acknowledge and agree that this Agreement is entered into as a mutual compromise and settlement which is not in any respect or for any purpose to be deemed or construed as an admission or concession of any liability whatsoever on the part of any of the parties hereto.

SECTION SIX

CONFIDENTIALITY

6.1 The parties agree that this Agreement and its terms are confidential. The parties further agree that the confidentiality of this Agreement and its terms is a material term of this Agreement without which the parties would not have consented to the Agreement. The parties expressly agree that they will not disclose or discuss the terms of this Agreement with any person. GMT/GLASSEY/MCNEIL shall notify DATUM's legal counsel, in writing, of the receipt of any request for the disclosure of any confidential information. GMT/GLASSEY/MCNEIL shall cooperate with the efforts of DATUM to quash such subpoena or other legal process or to obtain a protective order, as DATUM deems appropriate. The parties shall have the right to provide required information concerning this Agreement to investors and potential investors, and to Affiliates in order to enable them to carry out the activities contemplated hereunder and in connection with strategic business needs. Any such disclosure shall be pursuant to a separate agreement of confidentiality between DATUM or GMT/GLASSEY/MCNEIL and any such third parties.

6.2 The parties further agree to maintain the confidentiality of any document or information which has been or is designated as confidential, including Protected Technology.

SECTION SEVEN

ENFORCEMENT OF AGREEMENT

7.1 If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation arising out of or relating to any of the provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

SECTION EIGHT
MISCELLANEOUS

8.1 This Agreement is subject to, governed by, and shall be construed in accordance with the laws of the State of California.

8.2 GMT/ GLASSEY/MCNEIL represent and warrant that they are the sole and rightful owners of the claims asserted in the dispute described in this Agreement and that any such claims have not been assigned or transferred to any unnamed party. DATUM represents and warrants that it is the sole and rightful owner of the claims asserted in the COMPLAINT and otherwise herein and that any such claims have not been assigned or transferred to any unnamed party.

8.3 This Agreement is enforceable and binding upon the parties hereto, their successors and assigns, and any agents or others under the control or direction of the parties. Moreover, both parties, as well as the signatories, hereby warrant and covenant that their respective representative signing this Agreement has full authority to bind the parties to the terms of this Agreement.

8.4 The parties may assign all rights and delegate all duties hereunder to an entity acquiring that portion of each parties' business to which this Agreement relates, or to any corporate successor by way of merger or consolidation, provided that the assignee delivers to DATUM or GMT/GLASSEY/MCNEIL, as appropriate, a statement that the assignee assumes the assigning party's obligations hereunder. GMT/GLASSEY/MCNEIL may assign its right to receive the royalty payments provided in paragraph 3.2 to any person or entity provided that DATUM receives notice in writing of such assignment signed by GMT, GLASSEY and MCNEIL.

8.5 This Agreement constitutes and contains the entire understanding and agreement of the parties and cancels and supersedes any and all prior negotiations, correspondence and understandings and agreements, whether verbal or written, between the parties respecting the subject matter hereof. No waiver, modification or amendment of any provision of this Agreement shall be valid or effective unless made in writing and signed by a duly authorized officer of each of the parties.

8.6 The provisions of this Agreement are severable, and if one or more provisions should be determined to be judicially unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable. The provisions of this Agreement shall be construed as separate provisions covering their subject matter in each of the separate counties and states in the United States in which DATUM transacts its business; to the extent that any provision shall be judicially unenforceable in any one or more of those counties or states, that provision shall not be affected with respect to each other county or state, each provision with respect to each county and state being construed as severable and independent.

8.7 The parties agree to take any acts, and execute any further documents, that may be reasonably necessary to accomplish and effect the terms of this Agreement.

8.8 This Agreement may be executed in counterparts and by fax, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement has been executed by the undersigned on the dates below indicated.

Dated: November 14, 1999


TODD GLASSEY

Dated: November 19, 1999


MICHAEL MCNEIL

Dated: November 17, 1999


GLASSEY MCNEIL TECHNOLOGIES

Dated: November __, 1999

DATUM, INC.

APPROVED AS TO FORM AND CONTENT:

8.6 The provisions of this Agreement are severable, and if one or more provisions should be determined to be judicially unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable. The provisions of this Agreement shall be construed as separate provisions covering their subject matter in each of the separate counties and states in the United States in which DATUM transacts its business; to the extent that any provision shall be judicially unenforceable in any one or more of those counties or states, that provision shall not be affected with respect to each other county or state, each provision with respect to each county and state being construed as severable and independent.

8.7 The parties agree to take any acts, and execute any further documents, that may be reasonably necessary to accomplish and effect the terms of this Agreement.

8.8 This Agreement may be executed in counterparts and by fax, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement has been executed by the undersigned on the dates below indicated.

Dated: November 19, 1999


TODD GLASSEY

Dated: November 19, 1999


MICHAEL MCNEIL

Dated: November 19, 1999


GLASSEY MCNEIL TECHNOLOGIES

Dated: November 29, 1999

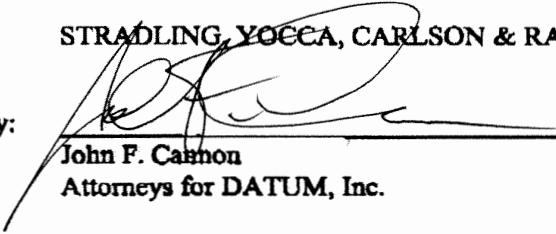

DATUM/INC.

APPROVED AS TO FORM AND CONTENT:

Dated: November ____, 1999

STRADLING, YOCCA, CARLSON & RAUTH

By:


John F. Cannon
Attorneys for DATUM, Inc.

Dated: November 9, 1999

BOSSO, WILLIAMS SACHS, BOOK, ATACK &
GALLAGHER

By:

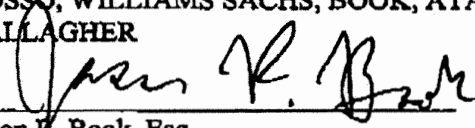

Jason R. Book, Esq.
Attorneys for Glassey-McNeil Technologies, Inc.
Todd Glassey, and Michael McNeil.

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Second Amended Complaint

1. For this, the Second Amended Complaint, which is intended to cure deficiencies in the PLAINTIFFS' First Amended Complaint ("FAC"), PRO SE PLAINTIFFS Todd S. Glassey and Michael E. McNeil allege this cause of action is specific to a chain of discrete direct patent infringements under 35 USC 271 (a), and include Inducement to Infringe under 35 USC 271 (b) and a Contributory Infringement under 35 USC 271 (c).
2. It also opens the Conspiracy inside the Global Standards Agency IETF, a partner of MICROSEMI, to take PLAINTIFFS' Unique PHASE-II Technologies and include them without authorization into a number of massively used network systems sold by the Defendants herein. And finally highlights and asks for relief from the alleged host of frauds committed by MICROSEMI and its Agents as alleged herein.
3. These patent infringements also uniquely outline a novel set of enforcement claims which pertain to a new PERFORMANCE RIGHT claim under the US Copyright Act to derivatives of the Infringing Standards; As published by IETF which pertain to products that the Defendants are shipping today.
4. It further recognizes PLAINTIFFS' existing THIRD-PARTY ENFORCEMENT RIGHTS against what is called the PHASE-II TECHNOLOGIES which are the bulk of the claims (if not all in fact) of those documented in US6370629.
5. PLAINTIFFS allege they have been defrauded as such from all of their enforcement rights globally against an Intellectual Property based on Defendant MICROSEMI'S actions and based on the unrestricted adoption by Defendant IETF, today PLAINTIFFS' PHASE-II IP is a part of virtually all networking systems in use globally.

6. Finally, PLAINTIFFS are entitled to under IRC165 a fraud loss equal to "the difference between royalties-received (none) minus the value of the opportunity-lost [which PLAINTIFFS would have been able to receive if they filed US6370629 on their own] relative to what they actually recovered through the extorted DDI and TTI settlements and the alleged frauds by MICROSEMI and its partners since". This formula creates an IRC165 Fraud Loss = to amount lost in opportunity minus the amount made.
7. As such PLAINTIFFS are entitled to under the IRC165 Fraud Loss Statutes a full financial loss against all enforcement revenues which would have been derived from all six of the US6370629 patent filings noted herein to date, and because of this PLAINTIFFS seek formal acknowledgement of that FRAUD LOSS with the US Department of the Treasury, Internet Revenue Service ("IRS") from this the Trial Court as just one of the relief's asked for herein.

The content of this, the Second Amended Complaint (PageCount)

8. The Second Amended Complaint wound up being significantly more pages to properly charge the COUNTS and Background Information out. PLAINTIFFS apologize to the Court for that.
9. Per the Order of the Court, this Second Amended Complaint ("SAC") is being filed to directly clarify and properly charge each infringement under the methods of charging required for 35 USC 271 (b) and (c) claims beyond the use of FORM-18. It increased the page count to properly re-charge each defendant and we apologize to the Court for that. Further Defendant PETER CHEN was omitted in the interest of Justice. All other parties and claims are maintained.
10. The complaint fully illustrates the CONTINUING OFFENSE nature of Defendant MICROSEMI'S actions and further clarifies the "AGENTS OF MICROSEMI" as "DOES"

under Federal BIVENS standard and brings their actions herein fully into the 'cleansing effect Sunlight adds to all proceedings' this litigation is opening up per Justice Brandeis.

Memorandum of Points and Authorities already inside the SAC

11. The SAC also has certain Case References worked into the Complaint itself because of the number of claims and defendants involved so a separate Memorandum of Points and Authorities is probably not necessary for this as the Compliant. Any other case references necessary will be submitted in P & A which will be filed in response to Defendants responses to this SAC.

PRO-SE Style - Our Open Apology to the Court

12. PLAINTIFFS apologize again to the Courts (as Pro Se litigants) in our bumbling style, and we hope to make up for that by stating the intent of the Second Amended Complaint is to clarify the Claims in the First Amended Complaint ("FAC") .
13. Plaintiffs submit this SAC document to further perfect the descriptions and charging for the extended 35 USC 271 claims under sections (b) and (c); and to properly notice the fraud (for FRCP 9(b) compliance in the complaints in regard to the unauthorized patent filings the statutory records prove happened; and then the acknowledgement of Microsemi's fraud and TI claims in its abandonment of five US6370629 patents in foreign jurisdictions;
14. Finally the SAC hopes to perfect the Antitrust Claims under the Sherman and Clayton Acts as alleged in the FAC.
15. In perfecting these claims the SAC adds detail to the existing charges in the FAC and properly identifies Sherman Act Complaints pertaining to Section One from Section Two actions therein.
16. It also properly charges the Clayton Act violation in the Merger requirements for Defendant MICROSEMI still outstanding to date.

17. It further raises the question of new claims being anticipated through Discovery as well as the adding of a SOX406 Claim as well.

Exhibits for this Second Amended Complaint

18. In the interest of keeping this filing down, the exhibits for this the second amended complaint are referenced from DOCKET#6 as that set of Exhibits. We reference them as such for this filing;

Definitions

Plaintiffs

19. **PLAINTIFFS** are individuals who were, for all times relevant hereto, residents of Santa Cruz County, California.

Defendants

MICROSEMI (and its operating divisions, resellers and partners)

20. **Defendant MICROSEMI, Inc.** ("**MICROSEMI**"), is, on information and belief, a Delaware corporation with its principal place of business in ALISO VIEJO California. This matter then pertains to MICROSEMI and its agents and resellers as well (as BIVENS-qualified DOES). That MICROSEMI increased the scope of SYMMETRICOM and DATUM Resellers and kept the AMANO RESELLER relationship in place with its agent AMANO CORP.

MICROSEMI Defendant Symmetricom, Inc.

21. **Defendant Symmetricom, Inc. ("Symmetricom")**, was, on information and belief, a Delaware corporation with its principal place of business in Irvine California. Defendant Symmetricom did, on information and belief, acquire the assets and liabilities of Datum, Inc. ("**Datum**"), in 2002 through a Merger creating a new Symmetricom as the successor to Datum. That Symmetricom increased the scope of DATUM Resellers and kept the AMANO RESELLER relationship in place with its agent AMANO CORP.

MICROSEMI Resellers AMANO and CISCO

22. Defendant DATUM entered into reseller agreements with DEFENDANT CISCO and its **(DOE) JAPANESE RESELLER AMANO INC.**
23. **The Amano Corporation ("AMANO")** is located in Japan at 275 Mamedo Cho, In Yokahama Japan. AMANO CORP was also the operator of the PLAINTIFFS' Data Center site (from corporation CertifiedTime Inc) in Japan and seized and converted PLAINTIFFS' property PLAINTIFFS assert on the order of Microsemi;

MICROSEMI Defendant Digital Delivery Inc

24. **Defendant Digital Delivery Inc ("DDI")** was a Massachusetts based corporation which PLAINTIFFS retained for Patent Agency legal representation;
25. Defendant Datum did, on information and belief, acquire the assets and liabilities of Digital Delivery, Inc. (DDI) in or about July 1999.

MICROSEMI Defendant BANCOM Division

26. **Defendant Mark Hastings** ("**Hastings**") is by information and belief the President and Founder of DDI and later was made the President of the BanCom (Bandwidth Compression) division of Datum Inc when it acquired DDI.
27. Mr. Hastings and his Corporation "DDI" became PLAINTIFFS' FIDUCIARY under the CO-INVENTOR AGREEMENT for the filing of the US6370629 Patent Application(s).

MICROSEMI Digital Delivery Inc - President Mark Hastings

28. **Defendant Mark Hastings** ("**Hastings**") was by information and belief the President and Founder of DDI and later was made the President of the BanCom (Bandwidth Compression) division of Datum Inc when it acquired DDI; Mr. Hastings and his Corporation "DDI" became PLAINTIFFS' FIDUCIARY under the CO-INVENTOR AGREEMENT for the filing of the US6370629 Patent Application(s).

MICROSEMI Defendant CEO ERIK VAN DER KAAJ

29. **Defendant Eric Van Der Kaay** ("**EVDK**") is by information and belief the President and CEO of Datum and later terminated by the Board of Symmetricom after getting into a FIST FIGHT with Defendant HASTINGS over PLAINTIFFS' IP and the alleged actions the two perpetrated in the cause of action herein. PLAINTIFFS allege Mr. Van Der Kaay unlawfully filed for Patent protection listing himself as the primacy inventor of PLAINTIFF GLASSEY'S TRUSTED TIMING INFRASTRUCTRE (US6393126) WITHOUT AUTHORIZATION OR COMPENSATION to PLAINTIFFS.

MICROSEMI Partner - The Thales Group

30. Additionally there is one BIVENS DOE to name as a corporation; That being The **DOE** called **"The Thales Group" ("Thales")** (a Delaware Corporation in the US). Thales is the landed US Base of the larger Defense Systems contactor "The Thales Group" of Cedex France, and its **eSecurity Division**, A Delaware Corporation called **"E-Security, Inc"** (nee "nCipher Inc" of Cambridge England).
31. The eSecurity Division of the Thales Group US operations is located in the State of Florida; and claims against Thales Group and in particular to the eSecurity Division pertain to its use of TTI Settlement IP and breach of the TTI Settlement through its partner MICROSEMI exist under the Antitrust umbrella as well. It is this division which sells the specific piece of PLAINTIFFS' IP used by the NSA and GCHQ as well as others in timestamping their Internet Surveillance Data which is a component of their National Surveillance Plan and its operations. Discovery will allow PLAINTIFFS to name exact parties within the corporate veil.

Defendant "United States Government"

32. **Defendant "United States Government"** ("**USG**") from Legislative to Administrative branches, is named because of its dependence on Computers running "Infringing Networking Drivers and Applications" ("**INDA**") and for its refusal to prosecute the parties committing these frauds while also simultaneously purchasing infringing equipment while also interfering with PLAINTIFFS' Attorneys and their service to PLAINTIFFS.

Defendant State of California - Governor Brown"

33. **Defendant Mr. Edmund G Brown, the Governor of the State of California and the State itself; ("SOC")** California has specific responsibilities in its implementation of US Law and Treaties. Further it has a requirement to not being an active party or financial beneficiary of a criminal action which in collecting taxes against the sale of infringing equipment, the State of California and the Local Counties have become.

Defendant Internet Engineering Task Force ("IETF")

34. **Defendant Internet Engineering Task Force ("IETF")** is on information and belief, a subdivision of the **"The Internet Society" ("ISOC")** . The IETF is operated as the world's Global Standards Organization for the Internet and it is the IETF who has produced the majority of the network standards applications which infringe on the rights here were written from.
35. **Defendant The Internet Society ("ISOC"** - www.isoc.org) is by information and belief a District of Columbia registered corporation operating in full compliance with US Corporation Law and Process as codified for the District of Columbia based corporate entities.

Industry (IETF Member) Defendants and MICROSEMI Partners

36. The following Defendants are named members of the IETF (and its related standards agency partners OASIS and IEEE et Al) who all either both use IETF standard-compliant networking underneath the processes of operating the Standards Practice, and/or operate within the IETF itself a formal presence and/or who both use these controlled Intellectual

Properties controlled under the "TTI and DDI Settlement Documents" inside their products and corporate operations; They include but are not limited to the following

Defendant Apple Inc

37. **Defendant Apple Inc ("APPLE")**, is a Delaware Corporation [Delaware Corporation File Number 3868031] and includes all of its external and foreign corporations or assets; Apple is located at One Infinite Loop in Cupertino California 95014.

Defendant Cisco Inc

38. **Defendant Cisco Inc ("CISCO")** A Delaware Corporation including all of its external and foreign corporations or assets with its principal place of Business located on 170 W Tasman Dr, San Jose, CA 95134. Delaware corporation File Number 0720708

Defendants eBay Inc & Paypal Inc and Defendant Netflix Inc

39. **Defendant eBay Inc & Paypal Inc and Netflix Inc**, ("EBAY" and "PAYPAL") and ("NETFLIX") each a California based Delaware Corporation including all of its external and foreign corporations or assets; Ebay Inc is identified as the entity associated with Delaware Corporation File number 2871352 and operates from its 2065 Hamilton Ave, San Jose, CA 95125 HQ.
40. Paypal Inc is Delaware Corporation File number 3014267 operating from 2211 N 1st St, San Jose, CA 95131.
41. Netflix Inc is registered as well in Delaware its Corporation number is 2790864 and operates from 100 Winchester Circle, Los Gatos, California 95032.

42. All three are Silicon Valley based entities with their corporate headquarters in the San Francisco Bay Area.

EBAY/PAYPAL Sales and acceptance of Negotiating BITCOIN as an infringement

43. In addition to its other infringements eBay sells BitCoin - ("BitCoin" or "BC") An infringing Cyber Currency; anyone (Paypal and Ebay) using as a direct "transactor of BitCoins themselves" the Paypal or Ebay commerce systems which infringe in their trading practice and/or who operates a "Bitcoin Mining Operation" will infringe. Mining is a practice which uses an array of crypto-graphic time and location stamps to create value and process inside the BitCoin cyber-crypto-currencies formula's is an infringer on Claims 19-32 of the US6370629 patent; The sales process uses a similar timestamp to control the various aspects of the sales and delivery process through their (Paypal and EBay's) logistics frameworks.

Defendant Google

44. Defendant Google Inc., ("GOOGLE") Delaware Corporation File #3582691 is a Delaware Corporation () including all of its external and foreign corporations or assets; and all of its sub-division and free-standing corporations operated outside of the Google brand; Located in Mountain View California;

45. PLAINTIFFS assert "Google as a corporation would cease to exist if it cannot continue to infringe PLAINTIFFS' IP Rights and cannot get proper licensing from PLAINTIFFS". This is true because so many of Google systems internally infringe on PLAINTIFFS' enforcement rights.

46. As such Google and many others look at PLAINTIFFS' IP as a life-and-death scenario. They must stop PLAINTIFFS from enforcing against them however possible. This is because

Google's search engine and advertising systems are all tied to secured-timestamps as PLAINTIFFS designed the IP for use in. So they directly infringe on PLAINTIFFS' IP Enforcement Rights as does the Geotagging of photographic or media content in youtube and other parts of the Google system as just two of the many infringements therein.

Defendant Juniper Networks Inc

47. **Defendant Juniper Networks Inc ("JUNIPER")** Delaware Corporation #2794873 is a ; A Delaware Corporation operating at 1194 Mathilda Ave, Sunnyvale Ca 94089 including all of its external and foreign corporations or assets; Juniper builds Switches, Routers and other Network Infrastructure equipment. A number of those (most all of them) are operated relying on IETF protocols which contain PLAINTIFFS' Protected Intellectual Properties. Juniper has no non-infringing uses of PLAINTIFFS' properties. All Juniper systems with PLAINTIFFS' IP inside them use that IP for those systems' daily operations. Without PLAINTIFFS' IP those Juniper Systems cease to function.

Defendant Microsoft Corporation

48. **Defendant Microsoft Corporation** ("MICROSOFT") a Delaware Corporation and all of its free-standing business units and external corporate assets; Located at One *Microsoft* Way *Redmond*, WA 98052-7329. Microsoft has a number of direct infringements and inducement to infringe standings here.
49. The part of the Microsoft Windows Environment which controls daily certification for proper licensing (and all of the related tools in the Deployment Toolkits and Location Based Service Libraries in Windows, Windows Mobile and Windows Embedded infringes as does the Microsoft Active Directory and WINS replacement for DNS as a time-controlled service.

50. As such there is no way to use any Microsoft Operating Software, the Microsoft Patch Cluster updater and Service Package control practice. This includes the OS's as well as key applications like Microsoft Office and many others.

Defendant Oracle Corp

51. **Defendant Oracle Corp**, A Delaware Corporation (FILE NUMBER 2457805) including all of its external and foreign corporations or assets; Located at 500 Oracle Parkway Redwood Shores, CA 94065.

52. Like Google and Microsoft, Oracle as a corporation has so many infringing products or systems that plaintiffs assert Oracle would cease to exist if it cannot continue to infringe PLAINTIFFS' IP Rights and cannot get proper licensing from PLAINTIFFS. There are three key identified infringements from the Oracle back-end Data Base which prevent its functionality at all and PLAINTIFFS believe there are others which Discovery will reveal in how the replication and timestamping triggers work in causing data to be mirrored from one location over secure channel to another.

53. In addition to the already discovered infringements from the Oracle Database Server and Concurrent Manager components themselves, Oracle Front-End Systems (Oracle Financials, Oracle Manufacturing, Oracle HR, Oracle Risk Management, etc) also come with libraries of infringing routines for assembly in the field into infringing applications that every time they are executed directly infringe PLAINTIFFS' rights therein. Meaning in addition to the infringement in the operations of an Oracle Database creating an Oracle Applications Environment as that Database's Front-End will also come with additional infringements.

BACKGROUND

54. PLAINTIFFS own a very unique intellectual property called PHASE-II Technologies.

PHASE-II technologies provide "the ability to access [to open and or close] the content of some blob of data based on TIME AND LOCATION.

55. PLAINTIFFS contracted with Defendant MICROSEMI (DATUM/DDI) for services as a PATENT AGENT but MICROSEMI turned hostile and 14 days later after DATUM acquired DDI MICROSEMI (DATUM) in August of 1999 filed a sham lawsuit to cover up the unlawful transfer of the US6370629 to DATUM in violation of the CO-INVENTOR AGREEMENT.

56. A simple review of the contracts and Datum's direct testimony to the US Government documents in EDGAR showing that this fraud occurred as charged is all that is necessary there. Exhibits proving this fraud occurred are already in the possession of the Court with DOCKET #6 Exhibits. See CONTRACTS/Co-Inventor Agreement from DOCKET #6 and the associated EDGER and PRNEWswire reports there documenting the transfer of DDI as a newly acquired unit of DATUM Inc.

57. PLAINTIFFS allege Datum used this unlawful transfer to get the Patent under Datum who had enough money to run a sham suit against PLAINTIFFS whereas DDI did not. Based on this and with financial manipulations of PLAINTIFFS' accounts owed to them by DATUM the new DATUM/DDI entity extorted the pair of settlements from PLAINTIFFS which it then proceeded to commit additional frauds on.

58. In delivering the executed settlements it altered the signature page on the DDI Settlement the night of its delivery replacing the physical page with the signature page from the other settlement being executed at that time "the TTI Settlement". PLAINTIFFS discovered this

since MARK HASTINGS signature was not on or required by the TTI settlement and is mandatory for the DDI patent action settlement.

59. Datum then started what became the 12 year effort to withhold the DDI Settlement document as a vexation against PLAINTIFFS' efforts to enforce their IP rights as represented to them by the settlements and MICROSEMI Attorneys. It also transferred TTI technologies to a European Company in a manner not permitted by the settlement and they tried to bring the IP back into the US through a JV with a English Company called nCipher. nCipher built out the software portion of the PLAINTIFFS' TTI and then sold the JV to THALES for 50m EU again in violation of the TTI Settlement transfer terms. Both actions constitute Sherman Act Section Two violations.

Scope of the Damages

60. Approximately 13 years of unlicensed use of this IP by any number of infringers and all of the Defendants has created a significant loss to address.

61. In the timeframe of 1999 until today the control of this IP was withheld from PLAINTIFFS by MICROSEMI to allow their partner the Global Standards Organization the IETF to put it into "so many places" PLAINTIFFS would be further vexated from its enforcement.

62. PLAINTIFFS allege that in concert with MICROSEMI who refused to confirm PLAINTIFFS' rights to the IETF that the IETF took this key control IP after becoming enamored with the PLAINTIFFS' PHASE-II Technologies and promptly began publishing their cookbook style Network Standards documents with PLAINTIFFS' PHASE-II controlled processes and methods.

63. Today that means any programs written to implement those communication models infringe as are those created or sold by Cisco, Juniper and all of the named defendants. PLAINTIFFS

further assert that there are no non-infringing uses as such. Further that IETF published this as a free-for-all and then re-licensed Third Parties to use PLAINTIFFS' IP in the Standards Agencies' 'derivative works' under the IETF Standards Agency copyright.

64. This simple set of controls now are inside of virtually all mobile devices and all computing platforms in use everywhere today based on failures to perform under the Settlement by MICROSEMI. That means this IP today facilitates all commerce committed on computers in the US and likely globally.

PLAINTIFFS' Contracting for Patent Filing Services

65. Historically PLAINTIFFS contracted with a company called Digital Delivery Inc ("DDI") as a PATENT AGENT. They were to file on PLAINTIFFS' behalf the US Patent granted as #US6370629.

66. The Filing was completed in 1998 and about six months later MICROSEMI made an offer to buy DDI. In July of 1999, six months before the extorted settlement was signed MICROSEMI acquired DDI in violation of the Co-Inventor Agreement's NON TRANSFERABILITY CLAUSE (see Section E, Docket #6 - exhibits/contracts/co-inventor agreement).

67. PLAINTIFFS assert MICROSEMI and DDI conspired to violate the Co-Inventor Agreement and then sue PLAINTIFFS to extort a settlement more conducive to their actions today, the total theft of PLAINTIFFS' intellectual properties. In doing so Mark Hastings sold DDI to MICROSEMI illegally in violation of his Patent Agency contract with PLAINTIFFS. MICROSEMI immediately (14 days later) sued PLAINTIFFS with a sham litigation and used economic manipulation by withholding five-figure debt owed to PLAINTIFFS to drive PLAINTIFFS' Company into 'submission or bankruptcy'.

68. PLAINTIFFS allege MICROSEMI did this because Defendant MICROSEMI realized the value of this patent and with another group of Intellectual Property ("IP") it licensed from PLAINTIFFS called the TTI, as well as the scope of its potential expenses in being "the keeper of the Patent that PLAINTIFFS contracted with Digital Deliver Inc ("DDI") to file for them"; The logic there is that MICROSEMI would have to file and protect the patent and its enforcement rights (including the foreign filings of US6370629 too) from infringements as well as fund all of PLAINTIFFS' litigations for enforcement including the costs of this action as well.

MICROSEMI extorts and then withholds Settlement Agreement for 12 years

69. MICROSEMI withheld the executed copies of the '629 Settlement until MICROSEMI Attorney John Burton apparently forced his client to stop denying the document existed some 13 calendar years after the document was executed and withheld from PLAINTIFFS. Mr. Burton was replaced instantly for that single action we believe.

70. MICROSEMI as such has waged a war against PLAINTIFFS accessing their IP by filing instances of it without authorization in Japan, Brazil, Canada, and the EU and then abandoning them to create a no-man's-land around PLAINTIFFS' IP causing PLAINTIFFS permanent and irreparable damages therein.

MICROSEMI and its Agents - Amano and Cisco

71. PLAINTIFFS further allege that MICROSEMI employed the use of its AGENT in the Nation of Japan AMANO Corp to first seize and then 'make disappear' the assets of CertifiedTime Inc, a company Amano contractually operated the data centers for in the Shinjuku area of

Tokyo, Japan, which was based on PLAINTIFFS' designs for a "Portable US-Government certified time-service". A design for a product-system which was to be sold to other Governments, a 'shrink-wrapped' system designed by PLAINTIFF GLASSEY in his efforts to 'commoditize' the US Time base as a new type of 'revenue bearing commodity' in the US.

72. These are also Materials which the US Bankruptcy Court also sold to PLAINTIFFS in USBK 01-54207-MM and which constituted one of the actions which marked this ongoing conspiracy and its beginnings on Foreign Soil in the Nation of Japan, marking the criminality of the allegations here, international IP theft constitutes EEA and 18 USC violations.

ONGOING OFFENSE DOCTRINE

73. PLAINTIFFS in addition to the previous allegations identify the actions of the Defendants properly as an ongoing offense; i.e. a protracted event which spans from 1999 until the current time and will continue if not stopped through the terminus of the enforcement period for US6370629, another four years.

74. That the Continuing Offense itself was committed through a chain of discrete acts under the Continuing Offense¹ Doctrine which makes this filing fully timely.

75. MICROSEMI in 1999 paid PLAINTIFF GLASSEY'S company COASTTEK \$360K as a "Stand Still Payment" so they could review Glassey's technologies and his Certified Timing Authority ("CTA"), a set of programs their Agent AMANO corporation stole from PLAINTIFFS and allegedly later turned over to MICROSEMI. They did the same thing with

¹ As Judge O'Scannlain has summarized, the continuing offense generally "involves (1) an ongoing course of conduct that causes (2) a harm that lasts as long as that course of conduct persists." Courts have used the term "harm" in the continuing offense doctrine context to describe "the substantive evil [to society that] Congress sought to prevent" in making certain actions or omissions federal crimes. *Toussie*, 397 U.S. at 122 ("It is in the nature of a conspiracy that each day's acts bring a renewed threat of the substantive evil Congress sought to prevent.")

Glassey company CERTIFIED TIME INC, and then after reviewing the company's Intellectual Properties and business plans under NDA refused to acquire the company while within months key components of the Company Properties (owned by PLAINTIFFS) appeared inside of various MICROSEMI products.

76. Further in 2001 MICROSEMI through its partner AMANO had PLAINTIFFS' property in Japan 'seized' by Amano and made to 'disappear'. PLAINTIFFS assert that numerous parts of those systems now are sold daily as components of off-the-shelf products from MICROSEMI. As such MICROSEMI has waged a decade long intellectual properties war with PLAINTIFFS through four separate Corporation Mergers making this a Conspiracy of epic proportions.

77. Finally since there are Clayton Act Section Four Antitrust Charges in 2013 and a new Sherman-Act Section Two violation pertaining to events every 18 Months for the last decade continuing into 2013 against MICROSEMI itself, this continuing chain of discrete frauds by MICROSEMI tolls the Statutes from discrete events in the beginning of this ongoing fraud by use of the Continuing Offense Doctrine.²

The Impact on TRADE AND COMMERCE Of these Alleged Frauds.

78. As computers become the core of all commerce on the planet earth the networks which link them become an important enabling part of the commerce framework. PLAINTIFFS allege Commerce in Silicon Valley has become a cut-throat community of Corporate Execs doing whatever they wanted to prevent the loss of key personnel and their creativity or their work

² “The hallmark of the continuing offense is that it perdures beyond the initial illegal act, and that 'each day brings a renewed threat of the evil Congress sought to prevent even after the elements necessary to establish the crime have occurred.'” - Yashar, 166 F.3d at 875 (quoting Toussie, 397 U.S. at 122); see also State v. Legg, 9 S.W.3d 111, 116 n.3 (Tenn. 1999) (“[E]very moment an offense is continued, the offense is committed anew.”)

product from one company to another. This loss of personnel is actually tied to skills and information the personnel take with them from Job to Job. PLAINTIFFS allege that "This set of 'we will do whatever it takes' actions are evidenced by the sheer number of antitrust convictions in the last five years there" .

79. What has been absolutely proven based on convictions before DC Circuit Judge Walton and others here in the Ninth Circuit is that most of the Named Defendants have suffered convictions or have done lucrative settlements to stop prosecutions as fast as possible documenting their culpability in these association-wide frauds as evidenced in those prosecutions.

The War between Apple and its Competitors - all about stopping Apple's IP from migrating - at any cost.

80. To provide more detail from that Commerce-specific impact of Defendants' actions, for companies like the Defendants named here, the number one corporate goal now pertaining to stopping the transfer of Intellectual Properties between Giants (like APPLE and GOOGLE) has become important as stopping Digital Artists called ANIMATORS from 'flipping' from DISNEY/PIXAR to LUCASFILM, only in the engineering and tech sector those parties many times are taking actual copies of their last set of works with them in direct violation of Antitrust, Tradeseecret Law at the Federal level and Business Codes in the State of California. Today's Animators for instance are functionally very talented programmers who operate NLE (Non Linear Editing) and Image Rendering Computers instead of painting on a sheet of plastic cellulose. As such these people are CREATORS OF COMPUTER PROGRAMS AND COMPUTER CONTENT and that is what this stopping the flow of information is all about. Preventing that flow of uncontrolled engineering information from Apple to Microsoft, or Microsoft to Google, or Google to Ebay, or Cisco to Juniper, etc.

81. PLAINTIFFS' allegation today is that our Phase-II enforcement rights indirectly control, mitigate or directly control much of the Defendants' practices and methods as Computer Program purveyors and in the sales of those systems to resellers and end-users both. Hence they both infringe in their own use which was properly charged in the previous complaint but they also induce others to infringe which is properly charged in this complaint.

The alleged UNLAWFUL AGREEMENT

82. PLAINTIFFS allege because the core PHASE-II technologies control virtually all key aspects of secured location based services, that these named DEFENDANTS actively conspired and waged an ongoing war to prevent plaintiffs from either recovering the actual executed settlement agreement from MICROSEMI or being able to enforce it. As such they have violated the US Antitrust Statutes as alleged fully within this complaint.

83. "PLAINTIFFS FURTHER ALLEGE THAT AS NETWORKS AND THE EQUIPMENT WHICH IMPLEMENTS THEM BECAME 'SMART' THE PLAINTIFFS' PHASE-II TECHNOLOGY STARTED APPEARING IN APPLIANCES, NETWORK DEVICES AND PROGRAMS FROM ALL OF THE ONLINE COMMERCE VENDORS (the Defendants).

Continuing Saga of Antitrust in Silicon Valley : Unlawful Agreement to manipulate the markets and control the flow of Intellectual Properties between companies.

84. These matters PLAINTIFFS assert are another related part of the "Silicon Valley Antitrust Conspiracy" proven by the US Department of Justice (see Judge Reggie Walton USDC DC

Circuit's ruling in the criminal side of this same matter) in their High-Tech (civil) Employment Antitrust Matter before Judge Lucy Koh in San Jose currently.

85. In addition to MICROSEMI'S actions to prevent PLAINTIFFS from using or benefiting from the IP they are the creators of, PLAINTIFFS allege a superset of the group of the Defendants from USDC CAND San Jose 11-cv-2509³ (Ebay, Google, Apple, et Al) case , a Civil matter pertaining to "The manipulation of employment to prevent the unauthorized flow of information" as an anticompetitive alliance, are in this cause of action responsible for the same type of horizontal conspiracy with MICROSEMI to prevent PLAINTIFFS from enforcing rights against those parties and the products they sell which infringe PLAINTIFFS' rights.

86. In that precedent matter Employment Antitrust was used by those specific defendants, the same charged herein, to prevent critical proprietary information and specialized skills from being transferred as often occurs when an employee moves from one company to another. But make no mistake, that matter was more about Intellectual Property than a single person and its control in the High-Tech Capital of the World.

87. This Cause of Action then is a newly emerged superset of that same original Antitrust matter. While Adobe and the Movie Studio partners named in the original Antitrust Matter are in fact Infringers, with the Complaint its current size they are left off and noticed as DOES. We formally do name the other key parties including Microsoft in its infringing use of PLAINTIFFS' PHASE-II IP's in various things its sells and services it provides to third parties today.

³see CAND - In Re: High-Tech Employee Antitrust Litigation, 11-cv-2509

88. As such that PLAINTIFFS will seek to have portions of the ANTITRUST PROSECUTION address one of the key factors in the plausibility question - this is reoccurrence of something already happened. So the question as to whether this type of thing is possible is moot.

IETF's alleged Patent-Fraud Actions directly affect US PUBLIC TRADE AND COMMERCE.

89. Since the time that US6370629 Patent was filed, the Industry Standards Organization the IETF has taken methods which are protected as PHASE-II Technology under US6370629 and included them into their Network Standards.

90. PLAINTIFFS have identified over twenty infringing IETF document families and noticed IETF through its IP Rights ("IPR") website; as such PLAINTIFFS have properly noticed all parties for formal disclosure of our rights. This is a key part of any PATENT INFRINGEMENT INDUCEMENT claim as well.

91. Today infringing systems use PHASE-II IP as part of their Location Based Service libraries and in many applications developed and resold or provided as a service interface for some form of commerce (in just one instance, Defendant eBay's case their "time-centric secured infrastructure uses timestamps as control messages in their workflow process". This infringes on Claims 19-32 of the US6370629 patent. Many Cloud Systems vendors also use the same type of technologies in their synchronization algorithms as well. Most of the other providers, Apple, Google, Microsoft, Oracle also infringe in the same manner. In fact these systems cannot be used without infringing. They do not work properly without the enhancements that

PLAINTIFFS' PHASE-II IPs provide to those in the form of both User Experience and Functionality.⁴

Why is US6370629 a threat to those defendants?

92. PLAINTIFFS assert that since US6370629 today controls most online timestamping as a messaging service or trigger of some subsidiary event all of these vendors infringe. They all sell many products which either directly infringe or induce the end-user to infringe the patent's controls. The infringing components are built into both the network programs which they run to make those products accessible and the actual workflow of the programs running in those devices as well as Applications. So for instance the thing that tells you to turn left when you reach your destination in a cellphone navigator is an infringement. It is a blob of data triggered by a secure timestamp generated by some program. We refer to the documentation from USDC San Jose Apple v Samsung as evidence of the algorithms used.
93. As such these vendors' actions pertain to anticompetitive events in support of their preventing PLAINTIFFS from enforcing claims against those Defendants and obtaining proper licensing for their use of their protected intellectual properties in defendants' products and services.
94. PLAINTIFFS further assert that this antitrust action was executed through a series of both Vertical and Horizontal Conspiracy Components as charged; Additionally PLAINTIFFS allege a Clayton Act complaint against Defendant MICROSEMI. Finally this case raises three unique questions of Constitutional law making this an important case potentially.

Related Cases before the US District Court

⁴ This action then fully meets the 35 U.S.C. § 271(c) Hurdle for proving contributory infringement as set in Vita-Mix Corp. v. Basic Holding, Inc. , 581 F.3d 1317, 1327 (Fed. Cir. 2009).

95. PLAINTIFFS assert this cause of action pertains to a superset of the parties in the antitrust employment control scandal attributed and then prosecuted on Apple, Google, Ebay, and others named in this said same cause of action. USDC CAND San Jose 11-cv-2509.
96. Additionally in addition to the HIGH_TECH EMPLOYEE ANTITRUST MATTER this case is another 'fractal' of, this matter appears to be similar to a case already decided in this the Ninth Circuit - that being *Cascades Computer Innovations LLC v. RPX Corp.*, No. 4:12-cv-01143 (N.D. Cal.). Like Cascade in this case plaintiffs allege MICROSEMI and its partners ran a *hub and spoke conspiracy* with Defendant IETF and its members across international borders as an action to prevent PLAINTIFFS' enforcement rights from being realizable. Further it relies on the PERFORMANCE RIGHTS concepts set in Judge Alex Kozinski's ruling in Garcia⁵ as well.

This Case Raises 3 Unique and Novel Questions of Constitutional Law

97. In addition to its focus on MICROSEMI'S US and international patent frauds this cause of action asks three unique questions of Constitutional Law pertaining to the US Copyright Act and performance rights (a la Garcia), it also asks in regard to the US Government's ability to 'say no' to a prosecution demand by a victim of IP Fraud; And finally it asks for relief from the Administration's "alleged use of FISA and/or PD 12333 in this matter to issue documents which create a tangle-foot web for PLAINTIFFS' Counsel, preventing their effective representation.

⁵ Garcia v Google - Ninth Circuit Appellate Ruling No. 12-57302

Constitutional Law Question One - Does the inclusion of a PATENT PROTECTED set of controls in a COMPUTER PROGRAM protected under the Copyright Act entitle the PATENT OWNERS to COPYRIGHT ACT PROTECTIONS (PERFORMANCE RIGHTS, Duty to Account, etc) against the execution of that PROGRAM???

98. The first question we raise pertains to the real world situation of what PLAINTIFFS' rights are to the IETF's conversion of the methods inside of US6370629 and their being placed without authorization from PLAINTIFFS into numerous instances of the IETF's globally-used network standards.
99. The question PLAINTIFFS raise is about "what happens when a copyrighted instrument like a computer program (or a network standard from which computer programs are derived) contains patent-protected material which it cannot operate without such that every program written to comply to that ["standard"] becomes an active infringement when executed?"
100. Does it for instance create a PERFORMANCE RIGHT under the COPYRIGHT CODE for PLAINTIFFS pertaining to the execution of that program for the Patent Protected IP Rights owner?
101. And further answer whether those rights survive the Patent's Expiry itself since Copyrighted programs implementing a patent protected IP should be enforceable through the terminus of the Copyright. PLAINTIFFS Allege MAZER allows for this PERFORMANCE RIGHT CONSIDERATION and ask for a ruling as such. ⁶

⁶ In a landmark decision, Mazer v. Stein, 347 U.S. 201 (1954), the Supreme Court ruled that the same disclosure or publication might support a design patent and a copyright.

Constitutional Law Question Two - Is the US and State AG Discretionary Standing eliminated by Ratification of the NAFTA, TRIPS and PCT agreements

102. The next question of constitutional law this matter raises is "what the limitations of the US Government's (the Executive Branch's) ability to say 'no' to a prosecution demand are when that demand pertains to IP which is constrained by one of the International Treaties with mandatory enforcement clauses which were ratified by both the President and Senate". As background generally speaking the Attorney General may refuse any prosecution demand as a discretionary control of the office of the Attorney General. But the question we raise is that when a contractual agreement in the form of a Treaty with another nation is signed saying that the US Government will prosecute these matters, this standing down in light of prosecution demands from PLAINTIFFS becomes a performance issue on the Treaty; Especially when that Treaty is ratified by both the Executive Branch and the Legislative Branch of the US Government themselves. That ratification of the President's signature is a promise to fully enforce the Treaty Terms and the refusal of the US DoJ to prosecute the frauds herein which PLAINTIFFS allege are absolutely air-tight, became a denial of the US Standing under these Agreements, and as such voided them all it seems.

103. The PLAINTIFFS assert in this Cause of Action that the Congressional override on the Trade Agreements takes that discretionary ability away, and further that POTUS approved this change to both the Presidents and Attorney's General authorities when the Trade Agreements were executed as well; and

Constitutional Law Question Three- Administration's alleged use of a NSL or other instrument and/or FISA to interfere with PLAINTIFFS' access to counsel

104. Finally the third and possibly most important Constitutional question with regard to the Courts themselves and the potential of the chilling effect the service of a NSL or other National Security based Warrant in a civil prosecution for the non US Government attorneys involved.
105. PLAINTIFFS assert that our Attorneys will not answer direct questions about whether they have been served or not which any Attorney not served as such would be able to freely comment on. The use of FISA or like legislation to issue a warrant to PLAINTIFFS' Counsel would prevent their disclosing this to their Clients.
106. PLAINTIFFS attest that this action,. with the use of a National Security Letter or other action under Executive Order 12333 by the Administration, the US DoJ can effectively stop a civil prosecution by making it impossible for an attorney to even talk with their client about their case and whether that was done by US DoJ, State, the National Intelligence Community, the DoD and/or other Federal Agency capable of enacting such a thing, or the WH itself in this matter the effect is the same, total prevention of the Citizens' access to the US Judicial System, representing a total collapse of the US Justice system. Since FISA is classified we seek assurance from the Court that such an order was not used and does not impact our access to the Courts in the United States.

Jurisdiction

107. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code and Antitrust Actions arising under the Sherman and Clayton Acts. As such the US District Court is the correct Court to file this action before.

108. That this matter alleges violations of the Sherman Act Sections One and Two, The Clayton Act Section Four by Industry Defendants and MICROSEMI, and finally for both the State of California and the US Government "violations pertaining to *reciprocal nondiscriminatory enforcement of treaty agreements*" under PCT, TRIPS and NAFTA as well as Patent fraud statutes pertaining to US and Foreign US6370629 and US63903126 filings.
109. This litigation further three questions of Constitutional Law including one on the interaction of Patent Protected IP inside of a Copyright Infringement under Title 17 and asks if this creates Performance Rights section of the Title 17 US Code as a key factor in controlling Interstate Commerce. Something that only a USDC and Appellate Court will have jurisdiction over.
110. Additionally under 15 USC section 4 and under 28 USC 1331 and 1337 that this court has SUBJECT MATTER JURISDICTION on the Fraud and Patent Claims as well as the authority to order the establishment of the IRC165 Fraud Loss PLAINTIFFS are requesting as relief herein, as well as the power to restrain those defendants from Violating the Sherman Act Section One and Two and to restrain MICROSEMI from its violation of the Clayton Act Section Four as well as find against those violating 35 USC 271 sections (a), (b) and/or (c) in their infringing against PLAINTIFFS' rights to enforce their PHASE-II Technologies against Defendants, one and all.

Venue

111. PLAINTIFFS state that the VENUE is also proper under Section 12 and 14 of the CLAYTON Act and other Federal Standards including 15 USC 22 and 28 USC 1391 (b)(2) (c) as all parties transact substantial business here.

Timeliness

112. This matter is timely based on recent refusals from MICROSEMI to perform verifications under the contracts terms; and also to acknowledge the Settlement Contracts themselves as the CONTRACTS both called for; something PLAINTIFFS allege is a new Clayton Act violation in 2013 as part of its Merger to Symmetricom.
113. Additionally MICROSEMI withheld the Executed Copy of the DDI Settlement Agreement until Feb26th 2013 when their Attorney John Burton turned it over to PLAINTIFFS for the first time ever. This turn-over in 2013 started various Sherman Act clocks ticking as well but created another incident act in the Continuous Offenses committed by MICROSEMI against PLAINTIFFS.

CONTINUOUS OFFENSE DOCTRINE VIOLATION

114. PLAINTIFFS claim a CONTINUOUS OFFENSE DOCTRINE matter operated by MICROSEMI in concert with Defendants who are mostly all members of defendant IETF in this cause of action.
115. As such this matter is composed of "a continuing set of specific discrete events each in furtherance of the larger continuous offense", that being *the preventing of PLAINTIFFS' enforcement rights for their Patent from being recovered.*

Continuous Offense Claim and Jurisdiction/Venue

116. In regard to Continuous Offenses, this court has subject matter jurisdiction pursuant to 28 .S.C. 1331 and 1338(a). Since PLAINTIFFS and MICROSEMI are located in Silicon Valley,

this Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b), 1391(c), 1391(d), and 1400(b).

PLAINTIFFS' Standing

117. Irrelevant of ANY ENFORCEMENT RIGHTS PLAINTIFFS' Standing is created for claiming IRC165 Fraud Losses by their Contracting with Mark Hastings of DDI (aka MICROSEMI) to file and manage a patent for PLAINTIFFS as the inventors and licensors. Mr. Hastings sold PLAINTIFFS' Patent to a Firm which PLAINTIFFS were consulting for and took a job as a C-level Officer of MICROSEMI (as Datum Inc) at which point he became adversarial and with Datum sued PLAINTIFFS through a Sham Litigation to force the turn over of PLAINTIFFS' property.
118. As such PLAINTIFFS have a 100% loss against all six of the Patents filed from US6370629 including '629 itself. PLAINTIFFS have identified many infringing systems which we today have to write down total enforcement losses for totaling the largest fraud loss in history since it is still escalating daily and will continue to through the terminus of the patent's publication and enforcement period in the US.
119. In this, the SECOND AMENDED COMPLAINT, the PLAINTIFFS assert they have BOTH PATENT enforcement rights [created and supported in the original filing Co-Inventor Agreement and the Settlement]; and
120. Further that based on the IETF placing those Patent Protected Methods inside their Standards, that for any program built to operate under that IETF Standard, that PLAINTIFFS enjoy a full set of JOINTLY OWNED COPYRIGHT ENFORCEMENT RIGHTS herein pertaining specifically to COPYRIGHT PERFORMANCE RIGHTS against the execution of

programs which the IETF designed which contain PLAINTIFFS' PHASE-II Technologies. PLAINTIFFS as such have Third-Party Enforcement standing confirmed in a number of manners.

121. The FIRST CONFIRMATION is that the DDI SETTLEMENT HAS PLAINTIFFS AUTHORIZING DATUM (as the first third party license). ALL OTHER PARTIES ARE COVERED FROM THAT SAME MODEL. PLAINTIFFS can license similarly to any third party based on the SETTLEMENT ALONE.
122. This is further reinforced by the CO-INVENTOR AGREEMENT terms about enforcement. As to the issue of competition, that is covered under PLAINTIFFS' NDA agreement with MICROSEMI. PLAINTIFFS notified MICROSEMI of infringements and demanded under the NDA that those were now Controlled Instances of Information Belonging to PLAINTIFFS per the terms of the Settlement and only the PLAINTIFFS as such could enforce against those parties.
123. PLAINTIFFS' Standing is further justified by the Korzybski Doctrine which states Korzybski "must rest upon the assumption that the owner of the statutory monopoly has some power to protect his 'work,' for otherwise any dedication would be without consideration."⁷

Either Document - Co-Inventor Agreement or Settlement gives PLAINTIFFS Standing to Sue and enforce against third parties

124. PLAINTIFFS assert that either of the two documents, the Co-Inventor Agreement and or/the DDI Settlement Agreement provide the PLAINTIFFS with full enforcement against any and all third party infringers, and that this has been blocked by Microsemi to protect its industry partners that are actively reselling in the millions of devices they have in service

⁷ Korzybski - 260 F.2d at 642.

today infringing on PLAINTIFFS' IP Enforcement Rights as the Sole Owners of PHASE-II Technologies; the ones protected under the Umbrella of US6370629. PLAINTIFFS assert this constitutes an actionable cause herein.

125. In closing the idea on the establishment of PERFORMANCE RIGHTS for PLAINTIFFS against DEFENDANTS' programs implemented which "in some unauthorized manner contain this patent protected IP", with regard to MICROSEMI'S intent and its actions per the terms of the disputed DDI Settlement PLAINTIFFS reassert "that PLAINTIFFS only licensed MICROSEMI for *the limited use in the Confidential Courier based products defined in the settlement*. All other uses including all direct and indirect third party enforcement were retained by PLAINTIFFS, that their actions in withholding the settlement to stop both its enforcement and court review is a key concept here".

126. As such based on unlawful filing and abandonment, refusal to honor the contract and act properly as PLAINTIFFS' FIDUCIARY in managing the PATENTS contracted for with MICROSEMI, MICROSEMI'S actions over the last 12 years speak for themselves prove the CONTINUING OFFENSE claim fully.

PLAINTIFFS are finally able to ask the Question - Is this Settlement even legally enforceable or it is void based on the Talbot Precedent?

127. PLAINTIFFS assert that from executing the terms of a settlement contract MICROSEMI obtained from PLAINTIFFS under extortive conditions, and which it then withheld from PLAINTIFFS for twelve years, that PLAINTIFFS have finally recovered their rights and now seek to test the Settlement or have it declared void it before the Courts.

128. PLAINTIFFS are concerned that Talbot v Quaker State Oil Refinery causes this settlement to be void because it (the TTI and DDI Settlements both) are missing exactly the

same piece which was grounds for voiding the contract in Talbot, and so with the filing of this Second Amended Complaint will move the Court to immediately review that document for its status under Talbot and if necessary order its being voided under the Talbot Precedent. Both have reporting and notice statement sections and no way of implementing those practices, something which PLAINTIFFS have repeatedly demanded MICROSEMI cure by adding the missing pieces of the contracts which current court precedents mandate so the PLAINTIFFS can properly execute their rights. MICROSEMI refuses to publish any of the requested documents and has for the last 12 years.

PLAINTIFFS' Enforcement Rights exist in both the Co-Inventor Agreement and the Settlement

129. PLAINTIFFS state that whether the Settlement Agreement is void or not PLAINTIFFS still have third party enforcement rights, as will be demonstrated in reviewing the contingency section of the Co-Inventor Agreement which makes both patents the property of the plaintiffs in this specific situation. Thus if the Settlement is voided by the court, at this late date it would trigger the contingency transfer language in the Co-Inventor Agreement making the original 992 Patent and the Amended 629 Patent property solely of PLAINTIFFS.

130. As to the ongoing infringements which PLAINTIFFS as the PHASE-II Rights Owners have 3rd party Enforcement rights against, we seek to enforce those as well.

PLAINTIFFS' Noticing of MICROSEMI as to who Infringers are and how under the NDA creates a PLAINTIFFS ONLY ENFORCEMENT MODEL

131. PLAINTIFFS prepared for the issue of "how to stop MICROSEMI from approaching PLAINTIFFS' licensee targets with another competing offer". PLAINTIFFS created direct

statements of who those parties were and formally disclosed them to MICROSEMI under the TERMS OF THE NDA SECTION OF THE SETTLEMENT that MICROSEMI itself is the sole author of.

132. PLAINTIFFS assert that this FORMAL ACTION ON PLAINTIFFS' PART serves to *create a wall between the problems MICROSEMI created when it refused to complete the contracts and prevents MICROSEMI from approaching or even discussing an alternative licensing offer to those parties identified to it under the cover of the NDA and their infringements. The use of this aspect of the NDA controls*, all of the disclosures between PLAINTIFFS and MICROSEMI since the settlement was created and setup for the PLAINTIFFS a unique control practice for noticing Microsemi on Infringers per what is necessary under TALBOT to make the settlement enforceable. I.e. PLAINTIFFS have done everything possible to CURE the missing Documents necessary under TALBOT to make both Settlements enforceable and Microsemi has prevented and blocked the production of those documents since 1999.

133. PLAINTIFFS also disclosed under the NDA all of the Infringers' infringements to the level of general analysis and in many instances to the claim level in the US6370629 patent. As such PLAINTIFFS have identified and disclosed their specific class of infringements to MICROSEMI under our NDA which prevents MICROSEMI from any licensing of any of these IP to those parties. All of those documents showing infringements will be added to the larder of case documents.

134. Parties' enforcement rights, under the Joint NDA PLAINTIFFS have disclosed the names of all of the infringers to Defendant MICROSEMI. PLAINTIFFS under the NDA sent MICROSEMI specific Infringement Analysis and Enforcement Notices against a number of

Defendants. MICROSEMI apparently contacted a number of them in direct violation of the NDA in the Settlement and assured them they would not let PLAINTIFFS enforce against those parties products, and somehow most of those parties wound up as MICROSEMI customers. What is generally known as a balance-of-trade agreement in market manipulation schemes.

The IETF's unauthorized use created a unique PERFORMANCE RIGHT against the execution of Programs derived from PLAINTIFFS' PHASE-II Controls.

135. And at the end-of-the-rainbow since third-party enforcement is the issue, users of IETF and other Software Models dependant on noticed Standards Groups use of that same IP (like OpenGeoSpatial and OASIS or IEEE) which are licensed therein are tied to PERFORMANCE RIGHTS considerations PLAINTIFFS' hold under the Mazer SCOTUS precedent and Garcia Ruling from the Ninth Circuit; Both creating a unique survivable enforcement right for PLAINTIFFS which is further strengthened by the Copyright Act's Duty to Account as well.

Plausibility factor (Ok it sounded Looney originally but...)

136. Under *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). The “plausible” standard requires more than showing that liability is merely possible or conceivable.
137. While the idea of an Industry-wide conspiracy sounded impossible the US DoJ's antitrust conviction in the employment letters matter as part of the High-Tech Employment Antitrust issue, proved that conspiracies which would critically protect the defendants' corporations in

those matters did in fact exist and were in operation through the period of the PLAINTIFFS' damages.

138. Since none of the defendants named can operate without infringing on US6370629's PHASE-II Technologies the idea they would band together to prevent PLAINTIFFS' enforcement is also much easier to prove at this point. Letters between Steve Jobs to Eric Schmidt about protecting the companies' IP are critical and document the underlying tone at the top of the Companies accused in this cause of action.
139. The principal defendants in this matter are the same as those of the Silicon Valley Antitrust matter up before Judge Lucy Koh in the San Jose District Court, and which also stood before Judge Reggie Walton of the USDC DC Circuit for Antitrust violations of a Criminal Nature.
140. For a standards agency to take patent protected IP and then create a program which infringed that patent and then re-license the use of that around the protections of the patent to their users, would be a crime against public interest in the functional setting aside of US patent protection in favor of a copyright of questionable authenticity⁸.
141. PLAINTIFFS assert this litigation then completes bringing to daylight the final action in that industry wide antitrust matter, what the PLAINTIFFS assert in this Complaint has been Wholesale Manipulation of the Global Standards Agency called the IETF.
142. PLAINTIFFS' allegation in our matter is simply another aspect of the same sets of frauds since US63709629 controls many of the functions these parties use in their day to day operations, hence they are all major infringers. Further since the infringing protocols cannot be used in any manner without infringing the creation of these dependencies in Defendants'

⁸ See Weissman v. Freedman, 868 F.2d 1313, 1318 (2d Cir. 1989); see also 17 U.S.C. § 103

products and services on PLAINTIFFS' proprietary IP has caused PLAINTIFFS significant damage.

143. So the banding together of the Defendants into a formal conspiracy is very plausible as a group to work to prevent PLAINTIFFS' recovery, and that potential is one of the legs of this claim.

MICROSEMI

MICROSEMI Tortuous Interference claim(s)

144. PLAINTIFFS assert these alleged *continuing offense* actions in continuing to deny PLAINTIFFS' rights and refusing to perform per the terms of the settlement, are all part of a Continuing Offense which MICROSEMI and its partners have used to tortuously interfere with PLAINTIFFS' rights and in that action have implemented a group-wide effort to prevent the DEFENDANTS from being liable to PLAINTIFFS for their unlicensed use of the PLAINTIFFS' Intellectual Properties.
145. Through this effort MICROSEMI and its executives waged a decade plus long war including denying PLAINTIFFS' right to third party enforcement rights and misrepresenting PLAINTIFFS' rights to key investors to prevent their properly commoditizing their IPs.

MICROSEMI Fraud Allegations

146. MICROSEMI'S filing and abandonment of five unauthorized foreign instances of US6370629 is a matter of record and PLAINTIFFS can ask for Summary Judgment on that claim alone. But the Fraud Enhancement takes proving intent and PLAINTIFFS allege these actions "in abandoning five foreign patents by not paying small statutory fees in the filing

and advancement process" and then later to filing Notice with those Patent Agencies
PLAINTIFFS could not recover those abandoned patents is a clear action against
PLAINTIFFS' interests.

147. PLAINTIFFS allege in this complaint that these acts were performed by MICROSEMI in concert with its partners in MICROSEMI'S alleged Vertical Conspiracy with its resellers (Cisco et Al) , to prevent PLAINTIFFS' rights from being implemented.

MICROSEMI: SHERMAN ACT Section Two Violations:

148. MICROSEMI has allegedly committed a number of Sherman Act violations (Section One and Section Two) and several Clayton Act (Section Four) violations in its alleged effort to prevent PLAINTIFFS from being able utilize their property and to dilute its Market Power in violation of US Antitrust Law.

First Sherman Act Section-Two Violation

149. PLAINTIFFS' allegation is that MICROSEMI Management has planned and led a "Continuing Offense for at least 12 years to deny the existence of the DDI Settlement Agreement and to damage PLAINTIFFS' Market Power from their PHASE-II technologies which make up US6370629.

150. That further MICROSEMI did this because they know that the withheld settlement was likely voided by Talbot v. Quaker State Oil Refinery (TALBOT: 28 F. Supp. 544 (1938)) precedent set in the Supreme Court; But without an executed copy PLAINTIFFS would be unable to have this, the Trial Court review of that contract for its standing and enforceability.

151. Again, PLAINTIFFS allege the withholding of the Executed Settlement Agreement itself was a continuing act which terminated on February 26th 2013 with the turn-over of a photocopy of the fully endorsed contract.
152. As to how the document was withheld. PLAINTIFFS further assert that the Settlement Document was originally delivered to PLAINTIFFS with an altered Signature Page. When its replacement was Demanded by PLAINTIFFS with a fully wet-signed copy MICROSEMI refused and the 12 year action started; An Action PLAINTIFFS assert was performed by MICROSEMI to prevent them from proving their claims or even getting court review of that document.
153. **TORTUOUS INTERFERENCE:** PLAINTIFFS also assert that this willful set of frauds (altering the signature page, withholding the document until 2/26/2013, denying for all for those 12 years that plaintiffs had any rights, etc.) constitutes tortuous interference with PLAINTIFFS' Economic Standing and that by the Settlement being withheld after its Execution, the altering of the Signature Page, as well as their acts of TI over the same 12 year period, MICROSEMI tortuously interfered on an ongoing basis with PLAINTIFFS' economic advantage and their commercial prospects under the Sherman Act Section Two.
154. That during the period that MICROSEMI withheld that document from PLAINTIFFS it repeatedly "told all parties that inquired" initially that the document "didn't exist" and then later that was remodeled with an admission that "the document was created but never executed", and finally when PLAINTIFFS sent executed copies of the documents to those who had tried to verify under section 8.3, 8.4 and 8.7 of the contracts what PLAINTIFFS' rights were, that they (the Defendant MICROSEMI) would prevent PLAINTIFFS from enforcing their claims against MICROSEMI'S partners operations.

155. PLAINTIFFS assert this forms a number of VERTICAL CONSPIRACIES in the context of Antitrust under both the individual (section two) and the group charges (section one) of the Sherman Act.

Second Section-Two Violation

156. In the process of withholding these documents MICROSEMI itself registered US6370629 filings in Brazil, Japan, Canada, and the EU with no releases for them and then "abandoned" those after filing their replacement instance of US6393126 to give the company its own patent. A patent based on IP from US6370629 and the TTI IP PLAINTIFFS licensed for limited use to MICROSEMI. These unauthorized patent filings in Canada, the EU and other World Patent filings created those instances of US6393126. The filing of the '3126 patent constitutes an independent Sherman Act Section Two Claim.

Third Section-Two Violation

157. MICROSEMI (in collusion with its Japan Reseller AMANO Corporation) engineered the fraudulent bankruptcy performed by CertifiedTime CEO Mark Williams.

158. Since PLAINTIFF Glassey was a board member of that corporation, and was not at the board meeting alleged to occur wherein the Bankruptcy was formally approved, and without PLAINTIFF'S presence in that matter there at the meeting because of empty board seats there could be no quorum.

159. MICROSEMI since that time has taken software from that system and other design components which were integrated into a number of its current products including its National Timing System stack. MICROSEMI'S alleged actions in manipulating Amano and causing the destruction of CertifiedTime Inc so that it could absorb more of PLAINTIFFS' Ideas and Technologies is another Sherman Act Section-Two violation in manipulating the

market. It also constrains potentially criminal actions with its partner in the theft of properties sold to PLAINTIFFS; by US Bankruptcy Court in BK 01-54207-MM in San Jose California. The act of taking these from PLAINTIFFS' site in Japan and then re-importing them into the United States for use inside MICROSEMI'S systems constitutes a Sherman Act Section Two violation as well.

Fourth Section-Two Violation

160. Additionally as a Section Two act violation, the IETF standards practice when it takes content not authorized and publishes it for use under the IETF's new copyright claim violates the protections that Section 102 of the Copyright Act creates.
161. In fact the IETF copyright on any document containing unauthorized technical standards content protected under another Copyright or Patent has become the issue.

COUNTS

162. PLAINTIFFS reallege and incorporate by reference the allegations set forth in paragraphs 1-159.
163. For all Counts, PLAINTIFFS are the owner of "all rights, title, and interest" in U.S. Patent No. US6370629 with regard to the components called PHASE-II technology within that patent. PLAINTIFFS have suffered enforcement losses against all five foreign instances of US6370629 filed by MICROSEMI.
164. Defendants have profited through infringement of the PLAINTIFFS' Patents. As a result of Defendants' unlawful infringement of the PLAINTIFFS' Patent protected IP enforcement rights, PLAINTIFFS has suffered and will continue to suffer damage.

165. PLAINTIFFS are entitled to recover from Defendants the damages suffered by PLAINTIFFS as a result of Defendants' unlawful acts.
166. On information and belief, Defendants' infringement of one or more of the PLAINTIFFS' Patent protected IP enforcement rights is willful and deliberate, entitling PLAINTIFFS to enhanced damages and reasonable attorney fees and costs.
167. On information and belief, Defendants intend to continue their unlawful infringing activity, and PLAINTIFFS continue to and will continue to suffer irreparable harm—for which there is no adequate remedy at law—from such unlawful infringing activity unless Defendants are enjoined by this Court.
168. For all of the following Counts, PLAINTIFFS are the owners of all rights, title, and interest in the PHASE-II Technologies as protected under the '629 patent, entitled "Controlling Access to Stored Information [with time and location]" duly and properly issued by the U.S. Patent and Trademark Office in April of 2002. PLAINTIFFS are also the sole owners of the TTI technologies specified inside of US Patent 6393126, a patent issued to MICROSEMI without any filing authorization from PLAINTIFFS.

Notice of Potential for Request to either further clarify complaints or add new fraud and an additional SOX406 related claim

169. PLAINTIFFS anticipate DISCOVERY also revealing proof of two other Sherman Act claims and a string of Clayton Act violations for MICROSEMI and potentially fraud claims in related violations across the entire chain of Defendants. As such PLAINTIFFS are noticing the Court that Discovery will likely lead to additional *or better refinements to the existing claims* and to the naming of three DOES (Adobe, Disney/Pixar and Lucasfilm) and their specific 35 USC 271 infringements for (b) and (c) infringements who have currently emerged

since the filing of this case originally so PLAINTIFFS notice that there may be grounds for a proper Third Amended Complaint as well to be filed once certain preliminary matters are resolved in this cause of action.

170. Additionally a POSITIVE RULING from this the Trial Court pertaining to the Fraud Loss qualification will document frauds in the Infringing Corporations' Management opening them to SOX section 406 claims and litigation therein as PLAINTIFFS are stockholders in a number of the Defendants today who are regulated by the SOX act itself.

COUNT 1 - MICROSEMI: Infringement of PLAINTIFFS' PHASE-II Technology; Fraud; Sherman Act § 1 and § 2 Violation; Clayton Act § 4, Operating a Hub and Spoke /Horizontal Conspiracy to restrain trade in violation of § 1 of the Sherman Act, Tortuous Interference

171. PLAINTIFFS reallege and incorporate by reference the allegations set forth in paragraphs 1-170.

Microsemi uses infringing technologies in its sale of non-licensed equipment including its TIMESYNC system

172. Defendants have been and/or are directly infringing and/or inducing infringement of and/or contributorily infringing the '629 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by at least claims 19 through 32 of the '629 patent, including, by way of example and not limitation, MICROSEMI TimeSync and other systems using IETF protocols based on the infringing IP. MICROSEMI'S limitation is for use inside of ConfidentialCourier(tm) products, not IETF products in any form. As such any IETF protocol appearing inside a MICROSEMI device which infringes which MICROSEMI delivers copies of are inducements to infringe for the end-users.

US6370629 unauthorized filings and related abandonment's

173. SHERMAN-ACT SS2: MICROSEMI filed and then abandoned six (6) copies of US6370629 only one of them authorized. Five of the six were abandoned either before or at publication time.
174. Those abandoned filings were then replaced with a patent which named MICROSEMI (US63903126) itself as the inventor with many of the same claims and some from other IP (the TTI) PLAINTIFFS licensed to MICROSEMI for very limited uses only.

Microsemi TTI Contract Violation

175. PLAINTIFFS are also the sole owners of the core technologies comprising the TRUSTED TIMING INFRASTRUTURE that MICROSEMI licensed the design of three derivatives of actual TTI systems and the use of the term "Trusted Timing Infrastructure" as a Trademarkable Market Identifier.
176. The actual GMT TTI is a set of thirty two components providing a set of models analogous to Judge Paul Grimm's relative-value in Digital Evidence templates. It was designed in mid 1996 while PLAINTIFFS were members of the ABA Information Security Committee working on legal standards in the ABA as resident technologists in the Science and Technology Track and the Information Security Committee. PLAINTIFF Glassey is published in the PKI Assessment Guidelines of the American Bar Association as a note as well. The PLAINTIFFS' original TTI as presented to MICROSEMI under NDA provides four (4) separate trust practices and the mechanical technology specification (an array of eight components to provide and track the various trust models implemented). The intent of the TTI was to pre-define the methods of providing provable time from a legal context into a computing environment something no other systems than the TTI actually do today.

177. MICROSEMI declined to build the GMT TTI and instead wanted to license three components of that set of tools for a mini TTI of Microsemi components they were marketing. Those are the three components described in the TTI Settlement Document that are particular to MICROSEMI.
178. The Settlement has no provisions for MICROSEMI'S filing of any patents whatsoever based on the TTI.
179. MICROSEMI filed three patents based on the TTI PLAINTIFFS are aware of, a World Patent, Canada and the US as US6393126. This act by MICROSEMI violated the Sherman Act Section-Two for the unauthorized filings and then abandonment of US6370629 in Japan, Brazil, Canada, the EU and South Africa- a clear market control action which has enforcement potential.
180. As such the TTI Patent (US6393126) is neither authorized nor contemplated by PLAINTIFFS, and a Sherman Act Section Two violation. For the Court's Information, the GMT TTI is a Security Framework for distributing and verifying TRUSTED TIME in COMPUTING INFRASTRUCTURE AS A PART OF PLAINTIFFS' "DIGITAL EVIDENCE PROTOTYPES".
181. Later after extorting the Settlement Agreement from PLAINTIFFS MICROSEMI withheld the executed copy of the DDI Settlement Agreement to prevent the PLAINTIFFS from being able to have a court review it for its enforceability and then denied the contract existed to the parties PLAINTIFFS sent to verify PLAINTIFFS' rights in violation of the Settlement itself, an act of Tortuous Interference by Defendant MICROSEMI against PLAINTIFFS. Additionally over the period it withheld the DDI Settlement from PLAINTIFFS Defendant MICROSEMI acted in concert with Defendant IETF Standards

Agency to "allow PLAINTIFFS' protected PHASE-II IP to be placed into Network Standards" used by the other Defendants in their commercial products in violation of PLAINTIFFS' IP Rights. (All Sherman Act violations, Section One with IETF, and Two because of its withholding the document itself.)

182. Additionally in 2001 PLAINTIFFS allege MICROSEMI had its Agents in Japan AMANO Corp seize (Amano freely admits this) and then turn over to MICROSEMI materials in AMANO's possession in Japan including PLAINTIFFS' Software, NIST Time Servers purchased from the US Government (three of them) and two MICROSEMI Model 5071A Atomic Clocks manufactured specifically for PLAINTIFFS, another Sherman Act Section Two violation as well by both MICROSEMI and Amano Corp its Japan Reseller since parts of these were sold under a US Bankruptcy Sale Order (see Exhibits Docket 6) to PLAINTIFFS. Another Clayton Act Section Two action.

183. CLAYTON ACT Violation of 2013: Under the Clayton Act § 4 PLAINTIFFS allege that per the TTI and DDI settlement agreements there is a role of FIDUCIARY Created with each 'baton pass' between successors and the party they succeed. In becoming the Successor to Symmetricom, per Sections 8.3 and 8.4 and 8.7 of the contract, MICROSEMI must "agree" meaning they must create a document saying they will be bound by the terms of the contract as an amendment to the Contract itself. MICROSEMI has refused and so is in breach of the Contract itself and in violation of the Clayton Act Section Four.

**COUNT 2 - Microsoft: Infringement of PLAINTIFFS' PHASE-II
Technology enforcement rights**

184. PLAINTIFFS reallege and incorporate by reference the allegations set forth in paragraphs 1-184.

185. Defendants have been and/or are directly infringing and/or inducing infringement of and/or contributorily infringing the '629 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by at least claims 19 through 32 of the '629 patent, including, by way of example and not limitation, Microsoft Location Based Service library and Microsoft Activator Modules and the related software loaded onto these fixed location, mobile and handheld electronic computing devices. Other Microsoft components like Windows Embedded NavReady(tm) components infringe as do a number of more mundane Microsoft systems including the Microsoft Patch Process, the Service Pack Bundling system, and a number of other applications infringe based on their operations including but not limited to Microsoft

186. PLAINTIFFS assert MICROSOFT was formally properly noticed and with IETF publications PLAINTIFFS have met the burden properly of Noticing Microsoft on its Infringements. Finally the Microsoft SKYPE and its Image Tools also infringe. in their use of IP protected under claims 19-32 of the US6370629 patent.

**No Microsoft uses which do not infringe on PLAINTIFFS' US6370629 protected
PHASE-II IP Rights.**

187. PLAINTIFFS finally allege many if not all of Microsoft's products cause its end-users to infringe PLAINTIFFS' enforcement rights on PHASE-II Technologies. Like most other Infringers there is no possible way to use Microsoft Operating Systems or its Network

Interfaces without Infringing. PLAINTIFFS' PHASE-II technologies are today an integral part of the Microsoft Active Directory and OS systems such that they cannot be used without infringing.

COUNT 3 Google: Infringement of PLAINTIFFS' PHASE-II Technology enforcement rights

188. PLAINTIFFS reallege and incorporate by reference the allegations set forth in paragraphs 1-187.

189. Defendants have been and/or are directly infringing and/or inducing infringement of and/or contributorily infringing the '629 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by at least claims 19 through 32 of the '629 patent, including, by way of example and not limited to Google Location Based Service library and Google Software Installer and Activator Modules; And the related ChromeOS and Android software loaded onto these fixed location, mobile and handheld electronic computing devices, including but not limited to Chrome OS and Android Mobile Phone and Access Devices from all manufacturers, GoogleWallet, Google Glasses, Youtube GeoTagging, GoogleMaps, GoogleCar and GooglePlane control systems; Google internal back-end Data Replication and reprovisioning schemas for data-mirrors from site to site and other infringements, Google Search Engine Optimization and Advertising Reselling through time-controlled and location controlled selection of advertising.

No Non-infringing uses of named Google Products.

190. There are no non-infringing uses of these GOOGLE Products. PLAINTIFFS finally allege Google's products cause its end-users to infringe PLAINTIFFS' enforcement rights on PHASE-II Technologies and for many of them there is no possible use of them without infringing PLAINTIFFS' PHASE-II IP Rights. Particularly also the use of the encrypted modem chip Android Phones makes their Location Based Service operations fully infringe at a no-possible use without infringing level as well.

COUNT 4 Apple: Infringement of PLAINTIFFS' PHASE-II Technology enforcement rights

191. PLAINTIFFS reallege and incorporate by reference the allegations set forth in paragraphs 1-190.

192. Defendants have been and/or are directly infringing and/or inducing infringement of and/or contributorily infringing the '629 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by at least claims 19 through 32 of the '629 patent, including, by way of example and not limitation, Apple Location Based Service library and Apple Software Installer and Activator Modules in MacOS and MOCHA, and its new Geotagging and ApplePAY (digital wallet) systems directly infringe both in the daily operations of the Apple Infrastructure as well as on a per-event basis for the End-Users Apple sells these infringing services to.

193. That these infringing products include but are not limited to those names the iPhone and iOS its operating system itself, iPad and iPad MINI units as well as other Apple products

which are only Software in Form. This includes certain applications APPLE operates as well including ones which resell via iTunes and the media resale systems represented by the iTunes storefront on the world-wide-web.

194. Additionally this also applies to all GeoTagging, AppleMaps, APPLE internal back-end Data Replication and reprovisioning schemas for data-mirrors from site to site and other infringements including Apple iTunes Cloud computing systems and others. As with many others all of these Apple systems infringe by their very use.

There are no non-infringing uses of these Apple Products.

195. There is no possible way to use the names Apple Products without infringing on processes and methods protected by PLAINTIFFS' PHASE-II IP Rights. Particularly also the use of the encrypted modem chip in iPhones makes their Location Based Service operations fully infringe at a no-possible use without infringing level as well.

COUNT 5 - Oracle: Infringement of PLAINTIFFS' PHASE-II Technology enforcement rights

196. PLAINTIFFS reallege and incorporate by reference the allegations set forth in paragraphs 1-195.
197. Defendants have been and/or are directly infringing and/or inducing infringement of and/or contributorily infringing the '629 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by at least claims 19 through 32 of the '629 patent, including, by way of example and not limitation Solaris's Location Based Service library and both Solaris and Oracle product Installer and Activator Modules (SUNOS, Oracle LINUX, Sun

SOLARIS and the Oracle Applications Suites (Financial, Manufacturing, Support, etc.) and the Oracle Cloud Commercial computing services.

198. This INDUCEMENT TO INFRINGE also applies to most of the other DEFENDANTS' use of DEFENDANT ORACLE'S products in their "internal back-end Data Replication and reprovisioning schemas" for data-mirrors and from site to site and other Cloud type operating infringements.

There are no non-infringing ways to use the Oracle Applications Suite.

199. PLAINTIFFS finally allege any number of ORACLE'S products cause its end-users to infringe PLAINTIFFS' enforcement rights on PHASE-II Technologies and that per the Inducement to Infringe requirements, ORACLE was formally noticed to cease and desist their use of these IP's on no less than three occasions from 2010 onward.

200. Oracle's Financial Systems as just one example, when they create complex time-based triggers from their programming support framework, infringe directly when running those services.

201. The infringement pertains to the time-stamp data structure and how it is created that represents the internal in-database timestamp something that the Oracle Database cannot operate without meaning Oracle cannot operate or resell its products without infringing US6370629.

COUNT 6 - Ebay/Paypal: Infringement of PLAINTIFFS' PHASE-II Technology enforcement rights

202. PLAINTIFFS reallege and incorporate by reference the allegations set forth in paragraphs 1-201.

203. PLAINTIFFS attest that both PAYPAL and EBAY were formally noticed to cease and desist their use of these IP's on no less than two separate occasions from 2012 onward.
204. Defendants have been and/or are directly infringing and/or inducing infringement of and/or contributorily infringing the '629 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by at least claims 19 through 32 of the '629 patent, including, by way of example and not limitation, the eBay Time-Centric Secured-Network interface based Auction System; The PayPal ACH and Electronic Payment Interfaces; Both entities transacting BitCoins(tm) Digital Currency and any other infringing systems or sale of materials like Cisco and Juniper equipment.

In re sale of BitCoins - "no method of transacting BitCoins which does not infringe."

205. Like Ebay and Paypal systems as well, all users of BitCoins infringe. There is no possible way to use a BitCoin without Infringing.
206. Likewise there is no way to use Paypal or Ebay without infringing in multiple areas of their operations and practices. For instance the selling of a BitCoin to a third party is both a direct infringement for the Ebay infringements and an inducement to the party buying the BitCoin "to infringe when they use the BitCoin itself". EBAY's sale and then expectation of use constitutes inducement to infringe or contributory infringement at the least. PayPal transacting BitCoins (mining) infringes directly and when mined in concert with other systems becomes part of the larger BitCoin framework infringement.
207. Both eBay and Paypal were noticed on their infringements and have continued to infringe ignoring those CEASE AND DESIST demands from 2010 onward.

COUNT 7 - CISCO/JUNIPER: Infringement of PLAINTIFFS' PHASE-II Technology enforcement rights

208. PLAINTIFFS reallege and incorporate by reference the allegations set forth in paragraphs 1-207.
209. Defendants have been and/or are directly infringing and/or inducing infringement of and/or contributorily infringing the '629 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by at least claims 19 through 32 of the '629 patent, including, by way of example and not limitation, IETF Protocols containing PHASE-II Technologies. Juniper imports and builds systems used in networking for fixed, mobile and handheld electronic computing devices.
210. Both Defendants CISCO and JUNIPER were formally noticed to CEASE AND DESIST the sale of the PLAINTIFFS' Protected IPs inside their Network Infrastructure and Computing Products on several occasions between 2011 and 2014 fulfilling the INDUCEMENT requirements for the complaint against both.
211. Further both Defendants are 'Cornerstones of the IETF' as it were and understand and in fact are partially responsible for the operations of the IETF today, making them directly tied to the IETF's Intellectual Properties Rights practices at an intimate level.
212. As such neither Cisco or Juniper have cause to ship a product with infringing code or technology inside of once noticed of that infringement. Since PLAINTIFFS filed for twenty protocols neither company can deny it is fully aware that they both actively ship infringing implementations of PLAINTIFFS' PHASE-II IP with virtually all their systems today and that their clients cannot use those systems without infringing.

213. Both CISCO and JUNIPER were noticed on their infringements and have continued to infringe ignoring those CEASE AND DESIST demands from 2010 onward.

No Non-infringing uses of these IETF protocols.

214. Cisco and Juniper were both formally noticed that there are no non infringing uses of PLAINTIFFS' PHASE-II Technologies appearing in most all of their products today and that they are both to cease and desist their infringement actions.

COUNT 9 - IETF: Infringement of PLAINTIFFS' PHASE-II Technology enforcement rights, Clayton and Sherman Act Violations

215. PLAINTIFFS reallege and incorporate by reference the allegations set forth in paragraphs 1-214.

216. PLAINTIFFS are the sole owner of all rights, title, and interest in the PHASE-II Technologies as protected under the '629 patent, entitled "Controlling Access to Stored Information [with time and location]": duly and properly issued by the U.S. Patent and Trademark Office in April of 2002. This is further codified in the DDI Settlement Agreement as to its intent, that in all instances PLAINTIFFS are the sole owners of PHASE-II Technologies and they and only they license resellers of those technologies. Further that per Title 17 all other parties have a duty to report any jointly owned copyright protected properties under the US Copyright Act's Duty To Account.

217. As the sole publisher of INTERNET NETWORKING STANDARDS on EARTH the IETF's protocols run the entire World today. All nations on the Planet Earth rely on TCP/IP based networking which the IETF is the keeper of the standards for.

218. The problem is many of the IETF Standards published since have been identified "to have PLAINTIFFS' IP INSIDE THEM WITHOUT AUTHORIZATION".

219. These named protocols⁹ have no non-infringing use or possibility of use and as such protocols like BIT TORRENT, which today constitute between 30% and 70% of all Internet Traffic, infringe by design. SecureDNS, NEA, DHCP, NTP and PTP as well as the BGP4 and OpenGeoSpatial Protocols all infringe on claims 19 through 32 of US6370629. Some (in the 20+ protocols already identified which contain Infringing Technology) in one or two functions only but the key ones in so many instances that the PROTOCOLS themselves cannot be used without these infringing components.

220. All of these Standards and permission to reproduce them for DERIVATIVE USE under IETF BCP#78 and IETF BCP#79 the terms and conditions contracts is granted under the IETF Copyright as well. Something PLAINTIFFS assert the IETF has no legal authority to do, that being "allow a third party (one of its partners) to create a version of a patent protected program under their IETF copyright and the assertion that this side-steps the patent protections there in creating a work the IETF controls all rights to as they have for over a decade now with their partner MICROSEMI."

221. As such any one of the Defendants producing a product (software, firmware) compliant to those PROTOCOL STANDARDS "Infringes both in their coding and debug work as a 35 USC 271(a) infringer but also when they sell or import those devices, appliances or programs as a 35 USC 271 (b) or (c) infringer". As such today's Internet stops working without Defendants' continued infringements against US6370629.

⁹ (See Exhibits for Docket 6 OTHER/IETF IP Notice for the first 20 notices sent to IETF on Infringements)

222. Defendants IETF and their MEMBERSHIP as such have to cover this up because it is the operation of an ongoing HORIZONTAL CONSPIRACY¹⁰ violating both Sections One and Two of the Sherman Act.

223. As to how the IETF under a special 'usable for any purpose' copyright publishes detailed cookbook or how-to papers on Network Standards, the IETF operates a SOCIAL MEDIA type standards practice - it uses email and a web based interface as the interaction component between the members and the efforts they are involved in. They also meet three or more times somewhere globally and not attending these meetings can spell death to a standards practice so without significant money to back a standards process it is very unlikely within the IETF that any standards efforts would get off the ground. The average Standards Practice costs the party running it between four and eight million dollars in just employee salary and cost-of-operations for the test-laboratory necessary to build those protocols in a corporate environment.

224. The standards themselves are a COOKBOOK RECIPE for implementing that NETWORK PROTOCOL and contains a full transactional (per the US6370629 Claims) stepwise process which directly infringes the controls in the PLAINTIFF'S US6370629 patent umbrella. IETF Documents detail the protocol interfaces, handshaking and use of the data models; These RECIPES for NETWORKING TOOLS are then reduced to programs from the service interfaces or API's in infringer's equipment by parties like Cisco, Juniper, Apple, Microsoft, Google and Oracle. They are further used in their production by

¹⁰ A conspiracy is an agreement, either express or implied, between two or more parties to accomplish an unlawful objective or to accomplish a lawful objective by unlawful means. *Pearl Brewing Co. v. Anheuser-Busch, Inc.*, 339 F. Supp. 945, 950-951 (S.D. Tex. 1972) (citing *United States v. Kissel*, 218 U.S. 601 (1910); *American Tobacco Co. v. United States*, 328 U.S. 781 (1946); *Standard Oil Co. v. Moore*, 251 F.2d 188 (9th Cir. 1957)).

Defendants EBAY/PAYPAL, NETFLIX, STATE OF CALIFORNIA, USG, and virtually anyone else using TCP/IP Networking for which they designed the workflow handshaking and communications rules as part of their Global Standards Effort.

225. Thus the IETF creates what are Industry Standards in the Internetworking realm. That means anyone using the IETF standard which contain infringing 'claims as process steps' like those which are protected by US6370629 will infringe when this code is "performed" or run.

226. The question is one as to PLAINTIFFS' PERFORMANCE RIGHTS of the patent protected IP in those programs per the limitations of Copyright Section 102 when unauthorized content is included against the wishes of the content owner, as has happened here. As such its republication as a Copyright protected replayable media under the IETF copyright is also a key element of this matter (a standard creates something that is executed in this context, i.e. a network aware program, so the execution of the program is the PERFORMANCE RIGHTS PLAINTIFFS assert they have rights to as well).

227. Finally, PLAINTIFFS assert under Section 102 of the Copyright Act it is an Antitrust action through the Standards Community and Technology Sector to force other adopters to infringe PLAINTIFFS' IPs by implementing compliant systems which contain PLAINTIFFS' IPs.

228. The Antitrust Damage is clearly denial of access to the market based on the IP rights being made functionally impossibly expensive to enforce or rendered unenforceable.

Technical Standards enjoy a special forms Copyright Document - they are NOT literary works and so generate PERFORMANCE RIGHTS from their derivatives naturally.

229. A technical standards document is a recipe, and its steps must be followed exactly to achieve network interoperability. So any Standard which contained IP protected under a

Patent would mandate the use of that IP in any device, program or digital appliance built to comply with that standard.

230. As such the PLAINTIFFS allege in this complaint that the Defendant IETF (through its members) is running Horizontal Conspiracy in the production of Standards with Defendants Cisco, Juniper and others. PLAINTIFFS further assert it is the production of these standards which contain content for which PLAINTIFFS filed no less than twenty (20) formal DO NOT USE statements with the IETF Intellectual Property ("IP") Rights program¹¹.
231. The inclusion of this IP into the Standards and their Licensing from the IETF to its members like Cisco and Juniper which completes this particular Horizontal Conspiracy in those parties' joint program which PLAINTIFFS assert was set up to violate the PLAINTIFFS' Title 35 Protections is an effort to make the IETF's own Copyright Claims supersede PLAINTIFFS' patent protections on content the IETF and its members include in their own Standards publications.

IETF and all users of its IP noticed properly.

232. PLAINTIFFS filed timely notices with IETF through the end of 2009. To date 20 or more IPR (Intellectual Property Rights) statements and CEASE and DESIST demands against the use of the IP with the IETF "constructive notice of Inducement To Infringe" were formally served in compliance with the standards set in *Unisone Strategic IP, Inc. v. Life Techs. Corp.*, No. 3:13-cv-1278-GPC-JMA (S.D. Cal. Oct. 22, 2013).

¹¹ See www.ietf.org/ipr for details on the Intellectual Property Rights flings made for IETF protocols

A Patent Infringement Fraud in a Standards Group is a Conspiracy based on the number of parties involved.

233. PLAINTIFFS' arguments are that "the tying of the Standards Practice which licenses the Defendants to use their Infringing Network Standards" for Apple, Google and all of the other Defendants to implement in their Products globally completes both key aspects of the Conspiracy to Dominate the Market and Prevent PLAINTIFFS Enforcing globally their IP rights. It also forms a Horizontal Conspiracy within the IETF itself and a Hub and Spoke Conspiracy between the IETF and the party implementing its protocol standards which allegedly infringe PLAINTIFFS' Rights.
234. The Spoke companies like Cisco, Juniper, Oracle, Apple, Microsoft, Ebay, Paypal, Netflix, and Google all either build and sell infringing gear, or have systems which provide a service to the public or private users which infringes when those users utilize it. In all instances we found infringements in, those systems have no non-infringing uses for all of the Spoke Companies and their Client base.
235. The ANTITRUST MARKET MANIPULATION comes in based on the size of these markets. The code which infringes will be sold to hundreds of thousands or millions of customers for their daily use globally, and the instant those parties turn those devices on they become ACTIVE DIRECT INFRINGERS.
236. Based on the INDUCEMENT TO INFRINGE from the Defendants those EQUIPMENT AND SOFTWARE PROGRAMS which contain infringing processes or when they are run infringe the PLAINTIFFS' PHASE-II TECHNOLOGY RIGHTS have become ubiquitous in many countries today causing the PLAINTIFFS untold damages.

ONCE NOTICED IETF PUBLICATION CONSTITUTES AN INTENTIONAL ACT.

237. PLAINTIFFS assert that "once notified of an INFRINGEMENT that the IETF may not publish any RIGHT TO USE of those Intellectual Properties until such time as the Licensing on the Infringing Technology is resolved". That it knowingly publishes controlled IP in its Documents if it does so without proper releases proves intent to defraud. Further that with INTENT proven, that their intentional publication of a right to use license under Copyright control creates for the owners of unauthorized content in the publication to be entitled to standing in the copyright protections, and in this instance specifically those PERFORMANCE and ACCOUNTING rights that standard US Copyright protections provide.
238. PLAINTIFFS further allege in this complaint that the IETF chooses to ignore these laws and operates above them by also refusing to put in place DMCA compliance on the US Copyright it publishes all of its global standards under. PLAINTIFFS allege this is another direct act of IP Warfare between "the IETF which is run by the Internet Society and the People of the United States" who they are actively defrauding as such.
239. This then is an attack on American Values and the US Intellectual Property control system by the members of the Internet Society, its managing Board Members and those providing the funding to operate it. As such this constitutes a direct threat against the American way of Life and our commitment to private commerce.
240. **Hub and Spoke Elements:** As to how the Hub portions of the IETF conspiracy like the NEA Submarine Patent work, those technical-protocols are designed by members of the IETF like employees of Cisco or Juniper who in the real-world instance of Cisco NEA ("Network Endpoint Assessment") Protocol Development program withheld the information

it had an already issued patent. That means that Cisco Corporation intentionally started the proposal inside the IETF to create the NEA Working Group to produce the NEA Standard.

241. NEA is an important tool. Cisco was immediately joined by Defendant Juniper and the NEA standards group was chartered and operated. During its operations many documents were created and sometime after the end of the first 18 months of the Working Groups' existence someone in a PATENT SEARCH found a CISCO PATENT ISSUED ALREADY ON THE NEA PROTOCOL ITSELF WHICH WAS FORMALLY WITHHELD FROM THE IETF.
242. As part of its alleged MARKET MANAGEMENT ACTIONS Cisco itself also actively tracked Patents and published the PATENT TROLL TRACKER Website for the members of its IETF inner sanctum.
243. Juniper had full access to the Troll Tracker Website while the program was in active operations. It was functionally shut down in a settlement with John Ward Esq. (son of USDC Judge Ward of the Eastern District of Texas).
244. Mr. Ward's case was heard in Texarkana in civil court and sealed after being settled. We believe that the Troll Tracker Website was a key component in an overall set of actions at the standards community level to influence and manipulate the fate of the world by Silicon Valley High Tech workers.
245. The existence of the PATENT TROLL TRACKER Website documented Cisco's active participation in efforts to track and influence patents used in IETF Internet Standards as well naming PLAINTIFFS and others like USDC Judge Ward's son John as Patent Trolls or

parties in possession of patents then needed to either license or prevent the enforcement of as much as possible.

246. PLAINTIFFS assert as such the existence of this conspiracy is pretty simply demonstrated. PLAINTIFFS further allege that Cisco Corporation and their Employee Rick Frankel Esq, an Intellectual Property Attorney involved in the Cisco IETF Operations, ran the program to track patents which would be used to influence standards through the Website Called the Patent Trolls Site¹² as part of Cisco's internal actions in manipulating the Standards Community fully.

247. As it happens Cisco's NEA is a US6370629 PHASE-II Infringing Protocol and so PLAINTIFFS have it listed as one of the noticed protocols to the IETF which they may not use any of PLAINTIFFS' IP rights inside of.

The Anti-Patent Actions of the IETF Inner Circle Members

248. Additionally PLAINTIFFS allege that several members of the IETF inner circle (mostly from Northern European and Asian Countries) have espoused a philosophy of "the IETF will destroy US Patents and the US Courts' crazy awards in cases like NTP v. RIM." PLAINTIFFS simply point to the proven High-Tech Employment Antitrust matter that the courts are so familiar with and say that our matter is in fact another aspect of "because the IETF members - those same companies - have declared their actions in the Standards Community and in the realm of IP law or Employment Manipulations and the INTERNET are above the Law."

¹² See Patent Trolls litigation Ward v Cisco - Arkansas 4:08-cv-04022-JLH

As just one Example of Antitrust inside the IETF: CISCO's NEA.

249. PLAINTIFFS allege that the IETF is in itself a continuous and ongoing conspiracy between parties to create network standards.

250. That their (IETF's) actions fully meet the terms of a conspiracy when the partners to any Working Group intentionally VOTE TO SEND THEIR PROPOSED STANDARD to the IESG inside the IETF for Ratification because of misrepresentations of legal authority of the parties conveying it to the IETF in each and every document filed before the IETF per the terms of their BCP#78 and BCP#79 Documents.

251. This Process is documented in the IETF participation and contractual frameworks called BCP (Best Current Practices) #78 and #79. The PLAINTIFFS assert that once a Notice of Infringing Protocol is filed with the IETF IPR, any publication of an infringing standard which conveys a RIGHT TO THIRD PARTIES to use PLAINTIFFS' IP in any manner infringes and prevents PLAINTIFFS from exercising the Market Power of the Monopoly the US Government lawfully issued to PLAINTIFFS with the Publication of US6370629.

**IETF's actions to make their TITLE 17 Controls supersede
PLAINTIFFS' TITLE 35 RIGHTS.**

252. The alleged intent is that this would functionally set aside or nullify the PLAINTIFFS' IP protections under Title 35 in favor of the IETF's Title 17 publication rights something Congress clearly never intended for; that this would create dilution and impossibility for enforcements based on net effect of PLAINTIFFS being forced to sue individuals and end-users under the RIAA infringement proceeding models. This type of manipulation of the US Legal Framework is clearly an antitrust action. As such and with other acts inside the IETF, the PLAINTIFFS assert both horizontal and vertical conspiracies are operating herein.

COUNT 9 - US Government:19 USC 2904 violation; reciprocal nondiscriminatory treatment of International Patent (and IP complaints); FISA abuse, NAFTA violation, Violation of TRIPS and PCT agreements

253. PLAINTIFFS reallege and incorporate by reference the allegations set forth in paragraphs 1-252.

254. PLAINTIFFS are the owner of all rights, title, and interest in the PHASE-II Technologies as protected under the '629 patent, entitled "Controlling Access to Stored Information [with time and location]" duly and properly issued by the U.S. Patent and Trademark Office on in April of 2002.

255. The US Government refused (per the second-order requirements of 19 USC 2904) to prosecute¹³ a patent fraud based EEA and Sherman Act complaint filed with the FBI Sacramento office. One sent to SA Manny Alvarez as well as major case intake in Washington DC. The US Government refused to apply the requirements of the NAFTA and TRIPS and PCT agreements based on Congress' Intent therein. PLAINTIFFS assert that the Congressional Intent in the Treaties is that they would be enforced and that it was Congress and not the US Attorney General assuring the foreign nations we (the US) signed those agreements that all actions which were eligible for prosecution under the fraud deterrence program would be to ensure US investors overseas and Foreign investors here in the US and their Intellectual Property protections.

256. Without mandatory prosecutions for patent frauds the US Attorney General and not Congress becomes the Arbiter of the Treaty and the US Performance therein, also something Congress never intended.

(note - that refusal was in violation of 19 USC 2904 to enforce the requirements of the Reciprocal Non-discriminator Treatment of Fraud Complaints which are legitimate in form and warrant prosecution, and other trade related statutes)

257. PLAINTIFFS also assert US Government further interfered with their legal representation and access to the Courts per the 7th Amendment and in doing so has issued a FISA Warrant for PLAINTIFFS' Counsel in this matter based on PLAINTIFF Glassey and certain hacking incidents. That this warrant interferes with PLAINTIFFS' Counsels' ability to represent their client and violates the PLAINTIFFS' rights to access the Courts in an unimpeded manner.

COUNT 10 - California State Government: Lanham Act violation in diluting the Market Power of the Patent Protected and Copyright Protected IP rights of PLAINTIFFS, NAFTA violation, Violation of TRIPS and PCT agreements; Patent Infringement

258. PLAINTIFFS reallege and incorporate by reference the allegations set forth in paragraphs 1-257.

259. The State of California refused to prosecute a dual antitrust and patent fraud complaint filed with the CA AG's office and sent to SAAG Bob Morgester the specific attorney who handled the landmark California State Policy setting Criminal Prosecution in California v Beninsig.

260. Since this patent fraud matter pertains to patents in the US and other nations it brings the Sherman Act Sections One and Two naturally into any fraud complaint pertaining to more than one instance of a patent in any nation as a continuing or recurring act. It also brings the mandatory intent of Congress into regulate the State's refusal to prosecute the matter here.

261. In this matter, like DoJ the State of California refused to apply the same standard it created to prosecute Beninsig (as the implemented policy of the State pertaining to Patent Fraud) to PLAINTIFFS' matter while the State itself was both buying tens of billions of

dollars in infringing Equipment across the State from any number of the named defendants (Cisco, Juniper, Google, Apple, Microsoft, Oracle) and collecting taxation on their sales as a enforcement of a conversion without payment against PLAINTIFFS' rights. These actions constitute 5th Amendment Seizure and Conversion by the State in violation of its own Eminent Domain Act because of the staggering financial debt they would owe PLAINTIFFS if their rights were properly enforceable.

The State as an Intellectual Property Owner creates a dual-standard.

262. Because the State maintains its own portfolio of patents which it licenses to parties the fact it refused to prosecute this patent fraud matter when it continued to both take Tax Revenue from Infringers and prevent PLAINTIFFS' recovery of their property, crossed the line between the State being an uninvolved co-conspirator to a direct participant and beneficiary of the proceeds of this fraud.

263. This is further amplified when political contributions to the campaigns of those State Law Makers and the Governor himself from those parties massively infringing on our patent specifically for 'the prevention of PLAINTIFFS' rights being blocked by the State' or so it is alleged herein.

The Government's (State or Federal both) Actions in refusing to Prosecute CREATE a "Vertical CONSPIRACY" under the Sherman Act.

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264. PLAINTIFFS further assert when a State or the Federal Government collects tax revenue from infringers and refuses prosecution that the collection of an Income or specifically a

sales tax completes the Conspiracy Chain for the Horizontal Conspiracy under the Sherman Act the PLAINTIFFS allege herein.

265. The collection of any revenue to the State from the proceeds of a criminal action is again another criminal action for the duration that the State continues to so abuse the US Patent system.

266. These claims for the State's subsidizing of the named infringers include the State of California's purchase of infringing systems from Defendants Cisco and Juniper both as well as Software infringing systems from Google, Apple, Microsoft and Oracle as named defendants herein.

267. As such the PLAINTIFFS assert the financial exchange in the form of tax collection completes the Government's standing as a financial benefactor of the fraud itself. And as such further a partner to it when they refuse at the County and State or Federal Level to stop the ongoing criminal concern

Sales Tax revenues collected by California against the unlawful sale of PLAINTIFFS' IP constitute the State's hand in furthering the alleged Conspiracy.

268. The Government's allowing one party to infringe PLAINTIFFS' IP and not prosecute constitutes functional conversion under the Fifth Amendment of PLAINTIFFS' Property without payment. Something neither the US Government or State of California may do under their respective Constitutions and the US Constitution.

DEMAND FOR JURY TRIAL

269. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, PLAINTIFFS

respectfully request a trial by jury of all issues properly triable by jury

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFFS pray for relief as follows:

- a. FOR ALL DEFENDANTS (excepting USG and State of California): For a judgment declaring that Defendants have infringed the PLAINTIFFS' IP Enforcement rights for PHASE-II Technologies as protected under the US6370629 family of filings.
- b. For a judgment that MICROSEMI and its partners named violated the Sherman Act Sections One and Two in their Operation of a Continuing Offense against PLAINTIFFS.
- c. For a judgment that MICROSEMI also violated the Clayton Act in its refusal to acknowledge and be bound by the Settlement Agreement as its terms mandate.
- d. For a judgment awarding PLAINTIFFS compensatory damages as a result of Defendants' infringement of the PLAINTIFFS' Patents, together with interest and costs, and in no event less than a reasonable royalty.
- e. For a judgment declaring that Defendants' infringement of PLAINTIFFS' Patents has been willful and deliberate.
- f. For a judgment awarding PLAINTIFFS treble damages and pre-judgment interest under 35 U.S.C. § 284 as a result of Defendants' willful and deliberate infringement of the PLAINTIFFS' PHASE-II Enforcement rights under the US6370629 Patents.
- g. For an Order finding that "Any Patent Protected Intellectual Properties pertaining to Computer Methods [which a Standards Agency such as the IETF included within] a

Standard will automatically entitle the Owners of those rights to Copyright Act protected 'Performance Rights' against the execution of programs which contain the infringing code".

- h. For DEFENDANT USG: an Order to the USPTO to reset the INVENTOR on US6393126 to PLAINTIFF Glassey and PLAINTIFF McNeil; and to properly assign it to them as an unlicensed component of their properties.
- i. Per MICROSEMI and SHERMAN Act Claim 3, an Order from this Court to the IRS fully qualifying and acknowledging the full loss value of the Property sold to the PLAINTIFFS by the US Bankruptcy Court in 01-54207-MM. That being the assets of CERTIFIEDTIME INC. PLAINTIFFS at this time want to take that entire loss as a tax write down with IRS. It is exactly five point two million US Dollars in Claims before the Bankruptcy Estate and the ten thousand in cash to allow the Clerk to complete the processing and pay the Attorneys in the case since the Debtor was broke. PLAINTIFFS seek an Order to IRS qualifying this as a 5.21M USD Loss based on the US District Court's unwillingness to review the Sale Order in any form or to set it aside so that PLAINTIFFS could re-litigate the recovery of their property from MICROSEMI and its agents.
- j. For DEFENDANT USG: For an Order to the US treasury, IRS Division "under the provisions of IRC 165 and the Madoff extensions created in the 2009/09 updates to IRC165 "recognizing the PLAINTIFFS' total loss of enforcement rights to date against US6370629 in all six jurisdictions" and in doing so authorizing a Full-Loss Write-down of all pre-recovery values for the US6370629 instances filed and then abandoned including but not limited to those in Japan, Canada, the EU, South Africa and Brazil at a

fair valuation as determined by this the trial court; PLAINTIFFS will work with the IRS and this the Trial Court to create a tracking and identification model for new and existing infringements as part of this.

- k. For DEFENDANT USG: For an order to the US DoJ terminating any use of FISA or any other action which interferes with a civil attorney's ability to represent their client in any Civil Proceedings whatsoever. Issue a Court Ruling that FISA matters must pertain to a criminal filing and nothing else, and that no NSL may be issued for use in any civil matter in the Courts because of the numbing effect it has on the Bill of Rights, and that parties' access to the Court to ensure Due Process is not denied to PLAINTIFFS under First, Fifth, Seventh and Fourteenth Amendment considerations.

INJUNCTIVE RELIEF REQUESTED¹⁴

- l. And for the US Constitution itself: a ruling that additionally under both Title 17 pursuant to the Performance Rights Argument and Patent Infringement injunctions per Title 35 (35 U.S.C. § 283), a grant of a permanent injunction pursuant to, enjoining the Defendants from further acts of infringement.
- m. For Defendants USG and the State of California: the issuance of an Injunction barring any Government Law Enforcement entity empowered to operate by the US constitution "from refusing to prosecute frauds around [private citizens'] intellectual properties (patents in this case) while both the State [of California] and the US Government continue both to license other patents they hold in their names to the public" and for which both entities continue to purchase infringing equipment, systems and computers

¹⁴ The Injunctive Relief Requested fully meets the four key requirements set See eBay Inc. v. MercExchange, LLC, 547 U.S. 388, 394 (2006); Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 24–31 (2008)

from Companies paying them sales taxes on those events. The reason is since they always prosecute frauds against the State of Federal Government themselves, the State and US Governments' *refusal to prosecute* sets a standard of different enforcement entitlement for patents owned by a State or the US Government then in violation of 35 USC as well as the PLAINTIFFS' seventh amendment rights in access to the US Court System.

- n. CLEAN UP the USBK/San Jose Sale of DEBTOR CertifiedTime Inc and all of the properties (especially those in Japan in AMANO's possession) and PLAINTIFFS' losses therein. PLAINTIFFS seek a formal order either recognizing the value of the PLAINTIFFS' loss to the IRS for use in US Tax Accounting for the PLAINTIFFS, and additionally if this court is so inclined, the review of that order finally and the setting the actual sale order aside or ordering it finally enforced.
- o. For a judgment declaring that this case is exceptional and awarding PLAINTIFFS their expenses, costs, and attorneys fees in accordance with 35 U.S.C. §§ 284 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure.
- p. For such other and further relief as the Court deems just and proper.

Respectfully submitted, 11-13-2014

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